

DEPARTMENT OF THE INTERIOR
OFFICE OF THE ASSISTANT SECRETARY - INDIAN AFFAIRS

TRIBAL ENERGY RESOURCE AGREEMENT (TERA)
CONSULTATION

HELD: July 11, 2019, 9:00 a.m.

At: Hard Rock Casino Hotel

777 West Cherokee Street

Catoosa, Oklahoma

Reported by: Linda Fisher, CSR-RPR

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ATTENDEES:

For United States
Department of the
Interior:

MR. JOHN TAHSUDA
Principal Deputy, Assistant
Secretary - Indian Affairs
Office of the Secretary
Division of Indian Affairs
1849 C Street NW
Washington, DC 20240
(202) 208-7163
john.tahsuda@ios.doi.gov

MR. STEPHEN L. SIMPSON
Office of the Solicitor
Division of Indian Affairs
1849 C Street NW
Room 6541, MS 6513
Washington, DC 20240
(202) 208-3401
stephen.simpson@sol.doi.gov

MR. MARK CRUZ
Deputy Assistant Secretary of
Policy and Economic Development
Office of the Assistant Secretary
- Indian Affairs
1849 C Street, NW
Washington, DC 20240
(202) 208-7163
mark.cruz@ios.doi.gov

MS. ELIZABETH APPEL
Director
Regulatory Affairs & Collaborative
Action
1849 C Street NW
MIB, Mailstop 4660
Washington, DC 20240
(202) 273-4680
elizabeth.appel@bia.gov

MS. ANNETTE ROMERO
Office of Regulatory Affairs
1101 Indian School Road, NW
Albuquerque, New Mexico 87104
(505) 379-6138
annette.romero@bia.gov

1 JOHN TAHSUDA: Good morning. I would like
2 to get started here. And as we usually do, I would like
3 to start us off with prayer. I think Mr. Mason has
4 graciously offered to help us start off in a good place
5 and a good frame of mind.

6 ARCHIE MASON: It's an honor to have been
7 asked to render this morning prayer. Like you, I enjoy
8 talking to God in the mornings.

9 (Prayer): Mighty Father God, we come this morning.
10 We say thank you for the privileges of life you have given
11 us. Thank you for the breath of life this morning.

12 Thank you for allowing us to see Father Sun come up
13 this morning. Blessings upon us here in this place, the
14 Cherokee. We thank you for that.

15 We thank you for the leadership that is here, Father
16 God. And those that will be presenting, Father, and those
17 that will be listening, Father. And those that have
18 questions, and those that have answers, Father, for our
19 people in the Osage and many nations that are represented
20 here.

21 We thank you, Father God, for their presence. We
22 ask for your divine guidance and your protection, Father
23 God, upon our people, our Indian people. Bless us.
24 Protect us.

25 Put your angel's wings around each and every one of

1 us, the parents, and grandparents, and the
2 greatgrandparents that are here, Father, as we are here to
3 listen, and determine, and make decisions, Father, for
4 ourselves and for our children, for our grandchildren, for
5 those unborn, Father.

6 We thank you for that privilege that we're still
7 here and we're surviving, Father. Give us those things.
8 We've inherited many things, Father God. And now as we
9 stand here and we're on our own watch right now, you're on
10 our watch, too.

11 Watch over and oversee the business at hand, Father,
12 that comes our way. It's complex, and it's confusing, and
13 it's important, Father God, so we ask that you just be
14 with us.

15 As we sit here today, Father, give us open minds and
16 open our ears that the things that we say and the things
17 that are said, Father, will be good to hear and
18 explanations will be given today, questions that we may
19 have, Father God, as we come to you with questions every
20 day. We know you have the answers.

21 So guide us, Father God, throughout this day. Be
22 with us during this summer season in the heat of our
23 ceremonial times, and the times that we express ourselves
24 here as representatives of our peoples, Father. Be with
25 us now as we move through the day, and in the morning in

1 the name of your son Jesus. Amen.

2 JOHN TAHSUDA: Thank you, Mr. Mason. We're
3 here this morning to open up a consultation with tribes in
4 this area about a proposed set of regulation changes that
5 we have and to provide a little more explanation. The
6 regulations -- and you should have been able to get a
7 copy, a paper copy when you checked in at the desk which
8 will have -- a copy of this slide show, right?

9 LIZ APPEL: Yes.

10 JOHN TAHSUDA: A copy of this slide show.
11 And then with that, you have a copy of the proposed regs
12 and then a copy of a called redline, which will share the
13 changes to the current regulations with the proposed regs.

14 And so these regulations reflect changes in the law
15 that happened last year. And the changes carry with it
16 not only the latest changes you see but a timeline.

17 So we are required by the statute now to have
18 conforming regulations, or conform our regulations to the
19 changes in law by the end of this year. So we're engaging
20 in several consultations. This is the first formal
21 consultation.

22 We had a listening session at NCI a couple of weeks
23 ago. But this is the first formal consultation on these
24 proposed regulations changes. We'll have a couple more,
25 one in Durango, and one in -- oh, in North Dakota, yeah,

1 New Town, for the Three Affiliated Tribes Reservation.

2 So that's what you have in front of you, and we're
3 here to discuss today. Unless anybody has an objection,
4 what I will do is go through the slide show relatively --
5 not very long, and give a basic explanation of what the
6 proposed changes are. And then we can open it up for
7 discussion and anything we have.

8 We have a court reporter here. Again, this is a
9 formal consultation. So we have a court reporter. She'll
10 be taking down things that -- everything that we say which
11 will be part of the record. Our staff, led by Liz, will
12 prepare your remarks as part of the consultation and part
13 of the record that we consider in doing the ruling.

14 And oh, while I'm speaking of the court reporter, if
15 you can, when you get up to speak, if you could state your
16 name clearly as you can and your tribal affiliation, that
17 would -- and particularly, if you're a tribal leader, if
18 you could state your position with the Tribe, it will be
19 helpful for us as we prepare the record, and et cetera,
20 and make sure that we have all that and know who is being
21 -- which comments.

22 Oh, and yes, please, if you can come up and use the
23 mics for your statement. We appreciate that. So with
24 that, we'll go through.

25 (Slide show presented.)

1 JOHN TAHSUDA: So the regulations that
2 we're talking about today are what we call the TERAs, the
3 Tribal Energy Resource Agreements. Many of you probably
4 know about them.

5 These were part of a statutory creation from 2005
6 when Congress passed a major National Energy Act. And
7 there was an Indian component, Indian minerals component
8 to that. So these are basically an agreement where the
9 Tribe can take over many of the functions that the BIA
10 does now in allowing mineral development on Indian lands,
11 in this case, oil and gas.

12 So it really is sort of a -- it's a conforming step
13 in the law to bring Indian energy and mineral development
14 in line with the overall policy of self-determination,
15 self-governance by tribes. So that, as I said, the
16 tribes, largely, you would step into the shoes of the
17 tribe, I mean, into the shoes of the United States and
18 perform a lot of the functions just as happened through
19 other areas of the self-governance and self-determination.

20 So as I said, the statutory authority for this, the
21 basic authority is from 2005. In 2006, and '8, the BIA
22 went through a regulatory process, finalizing in 2008.
23 The current regs are at 25 CFR 224.

24 And then last year Congress updated the statute and
25 made what I think are some very positive changes to it.

1 And we now need to conform our regulations in 224 to the
2 new statute.

3 One of the things that the update provided, I think,
4 is greater opportunity for tribes to be able to work with
5 outside companies, et cetera, pool their sort of -- their
6 resources as far as their knowledge, or their business
7 expertise with the Tribe to do that. So not only can the
8 Tribe take over functions, but there's an opportunity, a
9 greater opportunity for tribes to partner and use that as
10 a way to spur the development as well.

11 So in the proposed rule packet you have, there is
12 basically subparts A through I. And then a new subpart J,
13 which was -- which talks about the new process of
14 certifying the Tribal Energy Development Organizations
15 which is where the tribes will be able to partner with
16 outside.

17 So some of the main changes: There's no longer this
18 independent notion of Tribal capacity. It's specific to
19 the energy functions that the Tribe wants to take over.
20 Rather, the laws have changed to look over all the Tribe's
21 capacity. Again, the same thing we do with, like,
22 self-governance, or self-determination.

23 So if the Tribe -- and we'll get into some more of
24 it later. But if the Tribe has sort of a general capacity
25 handling real estate matters, other energy matters, et

1 cetera, then we'll presume that the Tribe has the capacity
2 to be able to enter into a TERA with the United States.

3 There's a few more timelines. And then the -- one
4 of the other, I think, important components is greater
5 clarification and a limitation on who an interested party
6 is who would be able to challenge either the TERA regs or
7 the actions a tribe takes under those.

8 So we talk about tribe capacity. So the new law
9 deleted several of the TERA application items that went to
10 showing capacity, that is, expertise, capabilities,
11 experience, specific to the energy development the Tribe
12 wants to enter the TERA for.

13 No longer does the department, you know, make this
14 determination. But rather, it's more mechanical now. If
15 the Tribe has certain things in place, then you basically
16 are deemed to have the capacity to take over a TERA.

17 And then there is some authorization for the
18 department to provide financial assistance. As most of
19 you know, we don't have piles of cash laying around so I'm
20 going to be honest up-front, and say I don't know how much
21 financial assistance would be available.

22 Because you guys know Eddie. He doesn't have any
23 spare change in his pockets. But there at least is the
24 authority, if we find -- if we find that we are able to do
25 that, that's a possibility that we can work with the

1 tribes on as well.

2 Okay. So, the TERA, the Tribal Energy Resource
3 Agreement, has a statutory deadline. Now, once an
4 application is received by the department, we have 271
5 days to approve it or disapprove it or it automatically
6 goes into effect.

7 If we do it, then we have to work with the Tribe,
8 allow them to submit a revised TERA, and then this
9 timeline shortens to 91 days to get to the approval or
10 disapproval. And hopefully, at that point we would be in
11 approval, I think.

12 We have limitations. One of the -- one of the -- I
13 think clarifications that the new law provides is limiting
14 the grounds for disapproval. So now instead of whether a
15 tribe has capacity, we talk about whether a tribe is
16 qualified.

17 You know, is there any independent -- these are
18 really pretty broad categories. Is there something in the
19 TERA that's going to violate another federal law or the
20 Tribe's treaty, or something, kind of a catchall there.

21 If we disapprove, then the department, we would have
22 to specify what provisions work with you, what revisions
23 would take care of our disapproval and then prepare for
24 you to resubmit it and get it approved.

25 So what is a qualified tribe? So really again

1 instead of having sort of an independent look at the
2 Tribe's specific energy capabilities, the law now tells us
3 to look at the Tribe's sort of overall governmental
4 capabilities, again, consistent with self-governance or
5 self-determination.

6 So has the Tribe carried out a contract or a compact
7 under self-determination for land and natural resources in
8 the last three years? Has it had no material audit
9 exceptions in those three years?

10 And then do you have -- does the Tribe have
11 substantial experience with the review or administration
12 or evaluation of energy resource leases or agreements or
13 otherwise participated in the management of the energy
14 resources located on your land?

15 Those are the basic concepts. Now, we're placed in
16 again, this sort of very in-depth review of capacity that
17 was under the prior law. So I'm not sure this is entirely
18 applicable because we've never approved a TERA. But if
19 the Tribe had had a TERA in place before, we wouldn't have
20 to submit for approval.

21 In the future, once a TERA is approved, and you want
22 to amend it to add, say, another type of energy
23 development or something to the TERA, you don't have to
24 apply for a whole new TERA, you actually just apply and
25 say, We want to amend ours to add this -- you know, this

1 type of energy development to what we are already doing.

2 And then the TERAs are basically evergreen, right?
3 They stay in place until rescinded by the Tribe, or if
4 there is some dramatic action that the Secretary needs to
5 take to protect the Tribe's physical trust assets. And
6 really those are the only two things that would interrupt
7 the authority of the TERA.

8 So again, here's what I thought -- I think is a
9 positive improvement in the law. And particularly, for
10 the tribes and for the department. As you know, we get
11 sued by a lot of people quite frequently. But in this
12 case for the TERAs, the law limits who an interested party
13 is.

14 And so -- and provides that they have to take
15 certain steps before they can seek legal remedy. So they
16 have to have exhausted their remedies under tribal law,
17 they have to demonstrate a substantial interest, a
18 substantial evidence of their interest in the actual
19 energy development to even be an interested party.

20 And then when the department makes the determination
21 whether somebody is an interested party, and if they are,
22 if the Tribe is not in compliance with its own TERA, it's
23 also -- it's not wide open. There's a limited number of
24 actions the department takes. And largely, to make sure
25 that this now interested party has a valid point to make,

1 and the Tribe -- we work with the Tribe to address the
2 noncompliance with TERA.

3 So again, there's a provision for if we have
4 unexpended amounts funds, the tribes can ask for those to
5 help them carry out TERA functions. Again, I'm not -- I
6 don't know how much money that would be there since most
7 of our offices and agencies are not running surpluses.

8 But again, it's something, that once the -- once
9 things get rolling, TERAs are in place, Tribes are taking
10 over some of the functions that our office would do, it
11 may be something to look at.

12 And then an alternative to the TERAs. This is the
13 new subpart J which the Tribal Energy Development
14 Organizations. Again, I view this as a very positive
15 development for tribes.

16 If you don't want to do a TERA, or I think if you
17 want to do a TERA, you can do one of these as well. But
18 the opportunity to still do leases, business agreements,
19 et cetera, without having to have a TERA in place.

20 Again, it's similar to the TERAs. You have to have
21 had experience in managing the government, basically, the
22 government functions that would go with approving leases,
23 et cetera. So has the Tribe had a self-determination
24 contract for three years, you know, handling, you know,
25 real estate matters, et cetera.

1 In the end, in a sense, does the Tribe have some
2 experience for at least three years handling the types of
3 functions that the Federal Government has been doing on
4 your behalf, rights-of-ways, lease agreements, et cetera.
5 So if the Tribe has that, then the Tribe has, in a sense,
6 has the capacity to handle this.

7 The other major qualification for this is that this
8 Tribal Energy Development Organization, if the Tribe
9 brings in outside partners, the Tribe has to retain a
10 majority interest in the Tribal Energy Development
11 Organization. And it has to be reflected in the
12 organization documents, et cetera.

13 Oh, and importantly, there is a requirement that the
14 TEDO documents specifically state that it is subject to
15 tribal law primarily. And this is, actually, even a
16 shorter time frame for us. But again, I think these are
17 -- the intent of the law, as I sort of read it or see it,
18 is that there's less requirement for Interior to make --
19 to make sort of substantive calculations.

20 But rather, if things are in place, then the Tribe
21 can engage -- you know, enter into this engagement
22 quickly. So there's only a 90-day turnaround once we have
23 received it to approve or disapprove a TEDO.

24 And then once it's done, it will be published in the
25 Federal Register. That's it. That's my short

1 explanation.

2 I'm sure you have a lot more questions. But if you
3 need -- if you want to look at more paper, you can go to
4 these two or go to this link on our website and click on
5 in the RACA area which is regulatory development and you
6 will see a link for Tribal Energy Resource Agreements.
7 Click on that.

8 So comments are due by September 3rd. We will have
9 wrapped up the final consultation next week, the final
10 in-person consultation. We have a telephonic consultation
11 on the 26th. I believe it's July 26th.

12 So the consultations, including telephonic, will be
13 wrapped up by the end of this month. And then we will
14 have the proposed -- or we'll have -- we'll close down the
15 comment period by September 3rd. So you have that period
16 of time to get written comments in. You submit those to
17 our consultation@bia.gov email address.

18 And Liz and her shop will compose all those like
19 they do with the transcripts from these consultations.
20 And then the next step is we would then roll into a formal
21 ruling process. So really you kind of get two bites of
22 the apple.

23 You get to make comments during the consultation
24 period. And then there's also either a comment period as
25 we go with ruling in general so once we launch into the

1 formal ruling process while the proposed rule comment
2 period, and then a final rule comment period. So you'll
3 get -- if you think you've missed something through the
4 consultation comment period, you will have an additional
5 opportunity to resubmit comments.

6 STEPHEN SIMPSON: No.

7 JOHN TAHSUDA: No?

8 STEPHEN SIMPSON: No.

9 JOHN TAHSUDA: On the proposed rules?

10 STEPHEN SIMPSON: We are in -- do you want
11 me to do this, Liz, or do you want to do it?

12 JOHN TAHSUDA: Because normally, we do a
13 consultation.

14 STEPHEN SIMPSON: I'm Stephen Simpson. I'm
15 with the Solicitor's Office.

16 JOHN TAHSUDA: I should have introduced you
17 guys. Let me do this real quick. Steve Simpson with the
18 Solicitor's Office. Mark Cruz is our Deputy Assistant
19 Secretary for Policy and Economic Development.

20 STEPHEN SIMPSON: Okay. We are in the
21 proposed -- the proposed rule published last week, week
22 before last. So we are actually in the proposed rule
23 comment period right now. That's what ends on September
24 3rd. Okay?

25 Then we go through the -- we go through the

1 comments, create the final rule, publish the final rule
2 and that's it. There is no comment period on the final
3 rule. But, yeah, this is -- or often we will do
4 consultations, or before on a discussion draft before the
5 final -- the proposed rule is published.

6 In this case, we didn't largely because what we're
7 doing is just taking the statutory language, the new
8 statutory language and largely just moving it into the
9 regulations. There's -- we're not making any real
10 substantive changes besides what Congress told us we had
11 to do.

12 So there wasn't -- I think the view was there was
13 not really a need for a discussion draft consultation for
14 this -- with this particular regulation. Because we
15 really didn't have any discretion as to what we had to do.

16 But in this case -- but so the comment period on the
17 proposed rule ends on September 3rd. If you want to
18 submit comments after that, we have to extend the comment
19 period and open it up to everybody else.

20 JOHN TAHSUDA: Thanks, Steve.

21 LIZ APPEL: This is Liz. I agree with what
22 Stephen said. But I also wanted to say that I think
23 ideally he would have had a discussion draft first before
24 we publish the proposed rule.

25 But because Congress required a final rule by

1 December 18th of this year, and Congress passed that law
2 in December of last year, so we -- with last
3 appropriations. And we were under an especially
4 compressed timetable.

5 So we had to go straight to the proposed rule for
6 this. And I think that's why John was thinking that this
7 was just the discussion draft at this point.

8 JOHN TAHSUDA: Yeah.

9 LIZ APPEL: Because normally that's what we
10 would do.

11 JOHN TAHSUDA: Thank you. I stand
12 corrected. So now you know the time frame, time periods
13 to submit. And again, so let me -- let me just add I know
14 that as Steve said, our -- the draft that you have,
15 proposed rule is largely -- is really just conforming our
16 regulations to the new statute and doesn't venture beyond
17 that.

18 I want to say, though, that we are open if you have
19 an idea, an improvement to the regulations beyond this, we
20 would, of course, love to hear that, anything you would
21 have to say. If there's any -- you know, anything that we
22 could build into it; it would, of course, have to be
23 consistent with the statutes. And the statutes relatively
24 are fairly specific.

25 But I think we would be happy to entertain some

1 better way for us to handle our responsibilities on your
2 behalf. So that's it for me. I want to open it up now
3 for comment. And I think Chief right off the bat. There
4 you go.

5 CHIEF STANDING BEAR: Thank you, John. I
6 recognize Chief Tillman is here and Everett Waller is here
7 of our Osage Minerals Council and other members of the
8 Osage Minerals Council. Speaker Tillman, members of the
9 Osage Congress, and our Osage shareholders here,
10 constituents.

11 The position of the Osage Nation is the Osage
12 Minerals Council manages our mineral estate. And for
13 that, the Minerals Council will have its own statements.
14 And the other branches of our government, we will have
15 some comments as we go through this process.

16 At this time I would like to turn it over to the
17 Chairman of the Osage Minerals Council, Mr. Everett
18 Waller, who will be speaking for us for the Minerals
19 Council. Mr. Waller.

20 EVERETT WALLER: Ladies and gentlemen, I've
21 addressed my Chief Tillman, my Chief Standing Bear, and my
22 elders here, my Congress, my Council, my shareholders, and
23 anyone else that is even listening to us today.

24 Representing the Osage is a great honor for me. As
25 Chairman we have seen all of this come through. Before I

1 got into it, I got this knocked down to an hour and a
2 half. I won't go that far.

3 We have a document here over a TERA. Back when I
4 was on serve with the Chief back in the nineties, we had
5 efforts of this nature. I sat on ITMA, ITA, RCB. This is
6 an opportunity here that's coming down because it's a
7 federal statute.

8 We have to review it because of us and we live under
9 A federal statute, Title 25, 226. That will stay. As a
10 Council, we look at how -- how do we even generate these
11 for the TERA? Can't do it without us. But the "us" part
12 now is that I've got a Congress here that's going to have
13 to write a lot of laws.

14 The effort of the Tribe here as a direct service
15 tribe, we are allowed some capacities that a
16 self-governance compacts don't have. This is not a
17 self-governance or compact.

18 All it is is if we're going to look at a TERA and
19 we'll do just like we have had to do everything else. We
20 are going to run down -- and we don't hunt buffalo, we
21 chase paper with pictures of dead presidents. My God,
22 that's the answer to all my problems in the Osage: Money.

23 The thing I want to look at is that this is an
24 opportunity. All of my shareholders know what we have
25 just marched through. What we have come through is days

1 and days of no rigs. When I was working for the BIA, I
2 had to go check 20 rigs a day every day.

3 Now if I want to check them, they're sitting over
4 here for sale on the highway. The services groups have
5 dropped. Now, to get back to issue at hand.

6 The Osage Minerals Trust. We developed it, and
7 received it in 1871. We purchased this property and come
8 in and struck oil in 1898. From that point on, we have
9 had the Federal Government because remember, we was with
10 the Department of War in 1754.

11 They did not leave us out. We stayed with them.
12 And for that capacity, I'm glad to be here on my other
13 side of the family, my Cherokee people. This -- I started
14 here. I was here when we was in a tent.

15 So it matters to me what happens to the Osage. It's
16 checked on a national level. No one comes ahead of us.
17 We're 127 years old in the fossil fuels.

18 Our problem is not that we still kept them. Our
19 problem is that we've got to know the value of it. I've
20 got council here. That's what we're working on. But this
21 TERA is going to allow the Nation to do some things.

22 Now, all of this comment is over production. I
23 can't give much rhetoric on the logistics. I see that
24 Stephen has already contacted something else, that you're
25 right; there is no effort in that. You could give us the

1 direct service now and not have to go through the process
2 that's getting us killed everywhere else.

3 Or otherwise, I wouldn't be in the Supreme Court
4 fighting another country. I want to just thank my Council
5 for that. You think you've got problems over TERA? You
6 better think about trespassing on your family's land,
7 their graves, their hardships they took to keep it.

8 But this effort here, the trust, we want to get into
9 it. Don't be afraid of where we're going. You better be
10 afraid of where we've been. If that does not change, I
11 don't see anything but a downfall. And ask how many
12 companies we own? None.

13 We have built five of the largest corporations in
14 the world. What we do now is come into a TERA that's a
15 little bit about Osage Minerals Trust system, which you
16 know well. You are a trustee.

17 We go into suggested changes to TERA proposed rule.
18 That's why we're here with my Council, my Congress, and my
19 Speaker. Our Chief and I have talked. And what we have
20 visited on is that every once in a while this runs into a
21 little problem because of change.

22 Well, a TERA is not a compact. You go X amount of
23 feet into this endeavor under 1906 Act. We happen to know
24 it well because we're the ones leasing it. Once we lease
25 it, then there's the possibility of where we want a TERA.

1 The Osage Nation does not discount the Osage
2 Minerals Council. Yeah, the politics thing, it get a
3 little gray there. But we have the reservation.

4 We worked this out. The Nation can plug in. We can
5 do it to protect ourselves. I'm not going and leaving
6 this earth where I have left my folks at risk. I just
7 won't do it.

8 What I am looking at -- and then I'll kind of wrap
9 this part up -- is that we have to have some comment here.
10 We cannot just put our heads in the sand and act like it's
11 going to get better. I'm losing 5,000 barrels a day. Do
12 you think I'm going to fix that here? I'm not.

13 But I am going to tell these other tribes: Watch
14 what's happened to us. I gave a great speech at Three
15 Affiliated. My God, a million two barrels a day, two
16 billion cubic feet of gas a day. And they have got
17 problems, the same one we've got.

18 And I totally saw that about 1920. With that, I
19 want to say that the continued work and relationship with
20 John Tahsuda, all of your offices is what's really going
21 to make this. I've worked on it at many levels. Let's
22 see what else I have.

23 I have a nice comment that I'd like to turn in --
24 funding formula. This will be real easy. Andrew, what
25 did you say 10 million a year? Yeah. I got him up to

1 nine.

2 How can we run a government installation for my
3 people when they can't run it? They're underfunded. How
4 is the tribe going to pick up these extra dollars? My
5 God, I had a great career in robbery when I started as a
6 child.

7 But, you know, lollipops and millions are about the
8 same thing. You've just got to go get them. Now, while
9 I'm chairman, I'll do anything it takes to take care of my
10 people.

11 With that, I would like to have all this comment put
12 in. I do want to tell my shareholders is that this is not
13 a compact or a contract. We will deliberately leave
14 identification of 1906 in here. None of that is going to
15 change.

16 As a matter of fact, even on these documents, your
17 Nation has put it in here as representation of us. The
18 Chief has allowed me this comment period. I've thought
19 about other things to say. But I want to close with this.

20 When I was young I worked on those rigs, all the
21 elements, pulling units, everything. Everyone had jobs.
22 Everyone worked. We don't have that now.

23 What I'm looking forward to is handing my
24 grandchildren something that matters. I was handed that.
25 And what I look at it is that this is an opportunity here

1 for not only the Osage Minerals Council, the Osage Nation,
2 but all other tribes.

3 The fossil fuels is taking a big hit. But until I
4 see camels and horses tied up out there, I think I'll stay
5 in the game with it.

6 Because why am I going to give something away that
7 we had to pay for? And that's where you follow us, you
8 will follow us to an eternity.

9 We're the only tribe that had to come after Civil
10 War and buy our home, our former home. So we're going to
11 get paid back. Today's environment is a tough
12 environment.

13 I want to thank my council for bouncing through
14 this. Yeah, it's been tough. Yeah, we're trying to grab
15 every dollar out there. And you know, we're on a global
16 market. You know that.

17 The only way that oilfield is up is in two ways.
18 They want to make less of a profit, or we're having
19 soldiers dying in the field. So in that case, I want
20 everything kept in order.

21 I want to close my comments on behalf of my Council
22 is that this has elements of us in it. And it's all 1906,
23 the Allotment Act. Why did we change from Part 25, 226 to
24 Part 25, 224? It's not going to happen. The Nation will
25 look at privacy in other areas. We know that.

1 I used to work for them. I used to work for the
2 Bureau. Don't hold it against me, because I learned a lot
3 there. I learned how that other world looks at us. And
4 now I love the part of that, become friends of me and my
5 Council now.

6 And I already know who they are. One thing about
7 it, as Osages, we've learned to skin that cat five ways.
8 But I guarantee you we will hunt it down and get it.

9 With that, I appreciate you all. I love my aunts
10 here. I want to close with that, my Chief, my Council.
11 Thank you so much. And I'll have this for the record.

12 JOHN TAHSUDA: All right. The floor is
13 open. That's a hard act to follow.

14 LIZ APPEL: I'm happy to carry the mic to
15 anyone who doesn't want to stand up.

16 JOHN TAHSUDA: Please just remember to say
17 your name.

18 JULIE MALONE: My name is Julie Malone.
19 And I'm a beneficiary of the Osage Mineral Estate Trust.
20 What functions will remain trust functions if we enter
21 into a TERA? And Will the list of beneficiaries remain
22 the same?

23 JOHN TAHSUDA: So I'm going to turn the
24 question of functions over to Steve because a lot of that
25 has been a work of the Solicitor's Office in determining

1 what functions we immediately can turn over.

2 But I would say that two things: One is under
3 further review of the last year or so, the solicitors,
4 with our office with BLM, in particular, have expanded the
5 number and type of functions and functions from different
6 offices like a field office.

7 I know that's not really an issue to you. So the
8 opportunity there is -- the opportunity is there, I
9 believe, for tribes to take over a broader range of
10 functions than was originally conceived when the TERA idea
11 was enacted. But now, that's also something that you can,
12 you know, take or not in the TERA.

13 You can leave -- you can take over some functions
14 and leave others. That would be something that you would
15 convert through -- for the specific needs of your tribe.

16 STEPHEN SIMPSON: Yeah. But as John said,
17 it does depend on when the Tribe decides to take over, to
18 a certain extent. We do have a provision in the existing
19 regulations that is not being changed, not proposed to be
20 changed at 224.82, which talks about what functions the
21 department will still provide after approval of the TERA.

22 And what that says in part is that -- well, it
23 starts off with, "All activities the department performs
24 unless the Tribe has assumed such activities under the
25 TERA." Okay?

1 So as John points out, we're taking a look at that
2 right now. As to what specific activities the Tribe may
3 assume, I can't tell you much more than -- because the
4 Secretary won't let me.

5 It's just much more than that. But we are taking a
6 look at it. And that's fine. That needs to go through
7 all of its proper vetting and everything.

8 But what we say in the regulation is that we would
9 still, again, unless the Tribe takes it over, we would
10 still provide access to title status information and other
11 support services that are needed by the Tribe in the
12 course of evaluating proposals for leases, business
13 agreements, and rights-of-way. We will, and -- and
14 coordinate between the Tribe and the Department for
15 maintenance of those property records.

16 There's still access -- there's still access, and
17 the Tribe wouldn't be taking this over. This is just what
18 we do. There is still access to technical support
19 services within the Department to assist the Tribe in
20 evaluating -- we've got a list here, physical, economic,
21 financial, cultural, social, environmental, and legal
22 consequences of those leases, business agreements, and
23 rights-of-way.

24 You can always call us. You can talk to us. You
25 can ask for our advice on those things. And assistance on

1 enforcement. We still have -- we will still have the
2 authority under the statute to ensure that the -- there
3 are breaches of those terms.

4 We can -- we can go and enforce, we can work with
5 the Tribe on enforcement, you know. We work that out
6 between us. We will still have the authority, if the
7 Tribe needs us to, to exercise it.

8 As far as the relationship between the Osage Nation
9 and the Minerals Council and the headright owners,
10 Chairman Waller is absolutely correct. The 1906 Act still
11 applies. And nothing in this TERA statute or in any other
12 statute changes that.

13 So that relationship is still there. And you would
14 still get, you know, the same -- you would still be
15 entitled to headright payments and all that.

16 JOHN TAHSUDA: Did that answer your
17 question about beneficiary?

18 JULIE MALONE: Yes.

19 MARGO GRAY: Thank you. My name is Margo
20 Gray. I'm an Osage Minerals Council councilwoman. And
21 you know, we -- when we first started talking about TERA
22 and when it was proposed to us through our attorneys and
23 office of the chiefs, you know, we took a good hard look
24 at this.

25 And the first thing, and just to back up what you

1 said that this will not impact the 1906.

2 STEPHEN SIMPSON: Yes.

3 MARGO GRAY: We want to make sure that
4 those protections are in place. The Trust responsibility
5 remains the same.

6 And so when we go -- you know how it is on social
7 media. You know, we always have some people saying, Oh,
8 TERA is bad, it's going to -- you know, it's like the
9 boogeyman is here. And that's not the case.

10 For many years, Osages have never been -- had the
11 ability to get into business on their own, on our own
12 terms. And TERA opens up this opportunity, you know, on
13 business.

14 We're doing this already, we're approving leases.
15 For over three years, we've already been handling the
16 Realty office. We have some of these things in place.

17 So from a business perspective, and also from the
18 oil and gas perspective, we know that the return on our
19 shareholder's checks has been impacted drastically.
20 Obvious from the ABB. And so that has been really
21 detrimental to our ability to -- for our partners in the
22 oil and gas industry in order to -- them to do business.

23 We've seen the Act. And so we're looking at other
24 ways, and working within the framework of our
25 Constitution, to work and develop business opportunities.

1 I'm going to kind of relate this a little bit to
2 gaming. When gaming first came on, everyone was like, you
3 know, this is going to be bad. You know, the Gambino
4 Family is going to be here. You know, it was like the
5 Mafia part.

6 So I can see where people are hesitant about this
7 but we also know, speaking of gaming, we have a Governor
8 right now who is wanting up from five to 20 percent
9 increase. So for those of us in oil and gas, or gaming
10 and oil and gas tribes, we have to look at other ways to
11 diversify in order to put money back, not into the Nation,
12 but more importantly, for us as Osage, who I represent as
13 Osage shareholders is to look at this as a business
14 opportunity.

15 So my really only concern that I have is that I know
16 that you said there will be technical support but there
17 also will be -- which is going to be great in setting up.
18 We talked about Osage needs oil and gas laws on our -- on
19 our books. We're working on that.

20 I like that there is the compliance piece, that
21 checks and balance will be there. The other part is, you
22 know, maybe the 271 days, it seems like a long time in
23 order to do business.

24 You know, we're hoping that -- I don't know if
25 there's any way that that can be shortened but that is a

1 long time. That's a nine-month wait. And when you start
2 any business, nine months is a long time because you want
3 a return on your investment if you're ready to go.

4 So even if by the time September is here and then
5 December that we'll be in to 2021 before this could
6 actually impact our shareholders to where we'll be able to
7 -- I'm just going to use this as an example.

8 If Osage wanted to get in, like, one of our people
9 on our reservation, Candy Crusher, or APAC for the
10 minerals, -- I mean, I'm just using this for an example.
11 If the Tribe, -- and I know that the Office of Indian
12 Energy and Economic Development have a grant for minerals.
13 So if we were going to get into, like, the gravel and all
14 that, because it does pay royalties, how will that be paid
15 back?

16 And will it follow the same thing like if we had a
17 tribal loan business for, like, a gravel pit to provide
18 some of this, they pay the -- so we would pay ourselves
19 back and then it goes to the shareholders. Is that the
20 way the business model will work?

21 STEPHEN SIMPSON: If the -- if the Tribe
22 has its own minerals operation? We would have to look
23 into that. I think we've had some discussions with y'all
24 about taking over royalty and gas and that sort of thing.

25 MARGO GRAY: Right.

1 STEPHEN SIMPSON: And we still would need
2 to know that we -- this is -- typically, if a tribe is
3 developing its own minerals or developing its own land,
4 the department, or the government, the Federal Government
5 doesn't have an approval authority there anyway. Okay?

6 And so you'll -- so you'll see that that's why the
7 TERA is -- and why the TEDO provisions of this statute are
8 oriented towards leases, business agreements, and
9 rights-of-way without the approval of the Secretary.
10 Okay? Because ordinarily, the approval of the Secretary
11 would be required for those.

12 And so that's what Congress was trying to -- trying
13 to take care of. How the -- so the general principle is a
14 tribe can develop its own land, can develop its own
15 minerals without the approval of the Secretary.

16 Whether the Tribe pays itself royalties is up to the
17 Tribe. How that will work, how something -- I'm coming to
18 that. How that would work under the 1906 Act we have not
19 looked into. I -- I cannot -- I can't opine on that
20 because I have no clue.

21 We'd have to talk, we'd have to work with --
22 probably work with your legal counsel to figure that out.
23 And I'm not going to put them on the spot right now either
24 and ask them. You could do that if you wanted to but I'm
25 not going to.

1 MARGO GRAY: I was just using that as an
2 example. I'm not saying that that's what we're going to
3 do.

4 STEPHEN SIMPSON: But, yes. And this --
5 and a TERA or a TEDO would apply to any of the minerals
6 that the Nation has.

7 MARGO GRAY: All right. Well, more
8 specifically probably outside businesses that have to do
9 with the oil and gas industry.

10 STEPHEN SIMPSON: Right.

11 MARGO GRAY: I know that the Osage Minerals
12 Council before has really worked on our strategic plan on
13 getting into business. But it is a part of whether it's
14 gas in kind.

15 STEPHEN SIMPSON: Sure.

16 MARGO GRAY: But where that money will come
17 back will always be to, you know, the royalty payments
18 will come to our shareholders. We've got to find out ways
19 to increase the check.

20 STEPHEN SIMPSON: Yeah.

21 MARGO GRAY: Yeah. All right. Those are
22 my comments.

23 STEPHEN SIMPSON: And there is -- and there
24 is nothing in federal law that stops, you know, even if --
25 even if, you know, the Tribe is developing its own

1 minerals. Okay? Or its own land. There is nothing in
2 federal law that stops you from giving money to the
3 shareholders. Okay?

4 If -- if the Nation decides, you know, with working
5 with the Minerals Council that that's what they want to do
6 with their money with money from those minerals, that's
7 fine. So --

8 STEPHANIE ERWIN: I could say a lot to
9 them, but I won't right now. Because it's more important
10 for me to know exactly the problem. My name is Stephanie
11 Erwin, E-r-w-i-n. And it's important for me to know the
12 role of the BIA in all this.

13 Right now we have a very serious problem up there
14 that our would-be oil producers do not have access to the
15 documents. So, therefore, they're afraid to come and
16 drill in the Osage. And our minerals has been devalued
17 because of that.

18 And we have also lost money because of that, the
19 annuitants. I want to know what role that -- if we don't
20 have to have the Secretary of Interior, the Superintendent
21 sign off on the 139s, 208s, however that's going to play
22 out, I want to know who signs it and if it will trigger a
23 federal action.

24 STEPHEN SIMPSON: It largely depends on
25 what actions -- what activities the Tribe takes over as to

1 who signs what. The TERA will, at a minimum, covers
2 leases, business agreements, and rights-of-way themselves,
3 not necessarily all the 139s and 208s, and all that.

4 But if you're taking -- if the Tribe decides to take
5 over, as John mentioned earlier, if the Tribe decides to
6 take over other activities that the department performs
7 now, it can do that. And that's what we're looking into
8 is trying to define exactly what those activities are.

9 And in that case, if the Nation or the Minerals
10 Council at the Nation has the Minerals Council do that, it
11 would take over all of those activities, and would do it
12 themselves. What else was I going to mention?

13 Well, yes, you could also do development as a TEDO.
14 And I will tell you what the TEDO idea gets you is, as an
15 alternative to the TERA is it moves it out of -- it moves
16 it out of the TERA and so you don't have what the TERA has
17 -- okay? -- is the periodic reviews that the Secretary
18 will do of how you're -- is required to do with how you're
19 doing your job under the TERA. And you won't have some of
20 those other things.

21 But the leases that it would apply to are more
22 restricted. If you've got a TERA, you can lease it with
23 whoever you want. If you're doing leases with your TEDO,
24 that's -- it's restricted to those.

25 The other thing was you mentioned federal action.

1 The main reason that Congress -- one of the main reasons,
2 not all of them, but one of the big reasons that Congress
3 enacted the TERA statute to begin with was to take the
4 Secretary out of -- just take away the Secretary -- the
5 requirement that the Secretary approves leases, business
6 agreements, and rights-of-way.

7 It says in the statute, and in the regulations
8 currently, and the proposed rule doesn't change this, that
9 all federal environmental laws still apply. Earlier there
10 was discussion of the American burying beetle. Yes the
11 ESA would still apply. But you know the statutes of how
12 well that's going.

13 So NEPA, the National Environmental Policy Act,
14 would still apply, the National Historic Preservation Act
15 would still apply. The key, however, is that those
16 statutes are triggered by a federal action. And by a
17 Federal, and in the case of the NHPA, a federal
18 undertaking.

19 Congress, in this statute, has taken the federal
20 action or the federal undertaking away for leases,
21 business agreements, and rights-of-way. So there would be
22 no need for review for these.

23 There is requirement under the TERA statute for the
24 Tribe to do an environmental review. The terms of that
25 are laid out in the statute. It is not NEPA. It is

1 specifically not NEPA. There's no alternatives analysis
2 and there is -- there is some other differences.

3 It still would require that that public -- or that
4 environmental review get public comments. Okay? But
5 importantly, Congress does not define, did not define in
6 2005, still didn't define in 2018, what the word "public"
7 means.

8 We have had another statute, similar statute for
9 surface leasing we have called the HEARTH Act that we've
10 been administering now since 2012. There are about 30
11 tribes around -- more than 30 tribes around the country
12 that have HEARTH Act authority and are doing their surface
13 leasing without the approval of the Secretary.

14 There's the same requirement in there for an
15 environmental review. So Congress also did not define
16 "public" in that statute. And we've told tribes that when
17 they do their regulations under that statute, they can
18 figure out who the public is that has to comment on there.

19 And as you might imagine, generally, it's tribal
20 members, maybe people around the edges of the tribal land.
21 And that's fine. So that allows you more flexibility
22 there, too.

23 STEPHANIE ERWIN: Okay. So I'm assuming
24 you'll be funding the tribes to set up these regulations,
25 the NEPA, wildlife, whatever, historic?

1 JOHN TAHSUDA: We haven't had a discussion
2 that we would have to have. Again, there is authority for
3 us to assist both with technical support and financial
4 support under the -- under the law and under the
5 regulations.

6 But as with everything we do, that's basically
7 subject to the available appropriations that we have in a
8 particular year. As a general matter, Congress never
9 appropriates to us. Let me say this carefully. Congress
10 seldom appropriates to us funding that is in excess of the
11 bare minimum need we have to administer our
12 responsibilities, in general.

13 STEPHANIE ERWIN: Okay. One more. I asked
14 this question. Maybe I didn't hear it. Sometimes my ears
15 aren't so quick. But at what point do we gain access to
16 our documents so our oil producers can get back in the
17 field and start drilling?

18 At what point does this happen for us? You tell me.
19 Is it still going to be a BIA function or can that be part
20 of the TERA? I mean, what are we doing?

21 JOHN TAHSUDA: Well, let's see if Steve can
22 address it. But I would say conceptually, that's a
23 challenge that I think is really not addressed by this
24 change in the law. So to the extent that those documents
25 are trust documents or trust assets, we remain responsible

1 for protecting those for the Tribe and tribal members.

2 And so that is something that we -- we have tried to
3 proceed very carefully. It creates or it is the
4 potential for substantial liability risk on behalf of the
5 United States. And so I know sometimes it seems
6 burdensome.

7 But, you know, in balancing, in balancing the
8 ability, as you see it, of the Tribe to further its own
9 economic development with our requirement, trust
10 requirement to protect those documents, we have
11 traditionally come out on the side of protecting the
12 documents. So that's, you know, that's sort of my rough
13 understanding, or I would say my rough explanation of how
14 we've done it.

15 And until there is a change in that dynamic, I'm not
16 sure. We can work around the edges.

17 I'm not sure how we can totally open up those type
18 of documents to just the broad public even if it's just
19 your business partners unless you have some type of
20 arrangement, the Tribe has some type of arrangement, maybe
21 through a TEDO or something where you can -- and we could
22 become comfortable with the liability on behalf of the
23 United States that that universe has shrunk down to an
24 acceptable level. I don't know if that makes sense.

25 ANDREW YATES: Andrew Yates, Osage Minerals

1 Council, Second Chair. You addressed some of the concerns
2 I had with if the Tribe, the Osage Tribe, and the Minerals
3 Council, and Congress, and the Executive enter into this
4 TERA or TEDO agreements, I was wondering, my main concern
5 is the NEPA.

6 We've had a lot of overburdened regulations that
7 have been imposed upon us, namely the American Burying
8 Beetle. It's held up a lot of our production, killed our
9 drilling, you know.

10 It's all time sensitive. And it takes six months to
11 a year to get a lease agreement for a well drilled and
12 then, you know, things change, the economy changes, the
13 funding, the investors changes.

14 My question is if -- and you did answer to a certain
15 degree -- businesses, and leasing. You get some from NEPA
16 but my question is on APDs, Application for Permit to
17 Drill. Will we have any relief if we enter into this
18 agreement?

19 STEPHEN SIMPSON: Applications for Permits
20 to Drill are one of the things that we are looking at for
21 whether a Tribe can take it over. As I said earlier, that
22 decision has not been made yet, okay?

23 If a -- as with all of the functions that a Tribe
24 would take over under a TERA, okay, if they -- if the
25 Tribe did that for APD approval, the Tribe could do that

1 for APD approval and then it would still be -- the Tribe
2 would still be acting as a contractor essentially of the
3 Federal Government.

4 Because the vehicle for taking these things over is
5 a 638 contract or compact. So we've got to look into
6 that, too. In other words, I am not sure.

7 My initial thought would be no, that there would
8 still -- there might still be NEPA review for that because
9 the Tribe is acting as the Federal Government's
10 contractor. Okay? But I would have to -- I would have to
11 think about that some more.

12 ANDREW YATES: Thank you.

13 SUSAN FORMAN: My name is Susan Forman.
14 I'm a Minerals Council member. And I just would like for
15 you to give me a detailed clarification of the difference
16 between TERA and TEDO. I'm a little confused on that
17 point is why I do a TEDO instead of a TERA.

18 STEPHEN SIMPSON: That's completely
19 understandable. We're -- we're -- we had to sit down and
20 really work our way through it as well.

21 Under a TERA if a tribe enters into a TERA with the
22 Secretary, okay, the tribe is -- it's an agreement. And
23 part of that agreement is that the Tribe can then do
24 leases, business agreements, and rights-of-way without
25 secretarial approval and take over other functions as

1 well. Okay?

2 More other parts of that agreement under the statute
3 are that the Secretary has the authority -- has the
4 obligation to do periodic review and evaluation of how the
5 Tribe is performing under that TERA. Okay?

6 There is also provision, the interested party
7 provision, that John referred to with the overheads occurs
8 in a part of the statute that allows a third-party to come
9 in and basically petition the Secretary to reassume the
10 TERA and all those functions if the Tribe is violating the
11 terms of its TERA. Okay?

12 And as John said, Congress made that a little
13 tougher. There is tribal law. There's also tribal
14 remedies and all that.

15 The TEDO provision is an alternative. Okay? What
16 it says is that you can create -- the Tribe can either
17 create its own corporation, or partnership or whatever, to
18 -- and essentially under tribal law, and do leases between
19 the Tribe, leases, business agreements, rights-of-way,
20 between the Tribe and that entity -- okay -- that tribal
21 corporation, that the Secretary would not have to approve.

22 Or the Tribe can enter into a partnership or a joint
23 venture with other nontribal entities, an oil company, a
24 pipeline company, some other entity, and can join together
25 with other tribes in that. Okay. And then they can do

1 leases, business agreements, and rights-of-way between the
2 tribe and that entity that do not require the Secretary's
3 approval.

4 And there are requirements for what that entity has
5 to look like which is what John was talking about. But we
6 don't get into that level of detail here. So but the TEDO
7 provision is only limited -- the exemption from the
8 Secretary's approval is limited to those leases, to leases
9 with the TEDO, okay, not leases with another company.

10 And the other leases, business agreements or
11 rights-of-way would still have to be approved by the
12 Secretary. So the TERA gives you a broader -- a broader
13 range of those people to contract with, okay? Because
14 it's not limited to the TEDO. It could be anybody.

15 But that comes with the periodic review by the
16 Secretary. That comes with the authority of the Secretary
17 to resume that authority, the TERA authority. That comes
18 with the possibility of a third-party petition through
19 violation of the TERA.

20 None of those three things happen if your contract
21 -- or apply if you're contracting with a TEDO. At least
22 that's our initial read of how all this works. Because as
23 John points out, we've never had a TERA application so we
24 don't know.

25 And the TEDO provision just came in in September so

1 that hasn't happened yet either. But that's sort of how
2 we see it initially. Is that it's a more limited range of
3 folks you can contract with. But it gets rid of some
4 parts of the parts of the TERA that the Tribe may not want
5 to deal with.

6 SUSAN FORMAN: Just to add to that, then
7 can a tribe do both?

8 STEPHEN SIMPSON: Yes. Yes. A tribe can
9 do both. A tribe, you could do -- you can do a TERA and
10 you can still lease under your -- under the 1906 Act or
11 under one of the Five Tribes Acts or whatever is still
12 applicable, the IMDA.

13 SUSAN FORMAN: Under both?

14 STEPHEN SIMPSON: You can do that. And you
15 can do -- you can do leases under either one you want.
16 You can do a right-of-way under a TERA if you've got one.
17 You can do a right-of-way under the right-of-way statute.

18 Or yes, if the Tribe has a TEDO, and it is involved
19 in a TEDO, you can still get a TERA, you could do it any
20 of those three ways, if you want. You could -- you could
21 have -- you know, you could say we want -- we want to
22 lease under our TERA with this company. We want to lease
23 under our -- with other TEDO and we want to do a 1906 Act,
24 lease with that company over there.

25 SUSAN FORMAN: Okay. One last question.

1 Then under any of those scenarios, we can still elect to
2 maintain our trust and our trustee for the collection of
3 disbursement of any funds, just a -- I need a confirmation
4 on that.

5 STEPHEN SIMPSON: Well, no, if the Tribe
6 doesn't take over those functions, yes. And let me be --
7 let me be -- add just another level of confusion to this.
8 As I said, the Tribe will be taking over -- if the Tribe
9 has a TERA, it will be taking over functions through a 638
10 contract/compact. The Tribe can already do that even
11 without a TERA. That's not new.

12 Tribes take over functions of the Secretary all the
13 time and as long as they're not inherently federal. And
14 so, you know, from 1979, when the -- when the
15 Self-Determination Act was passed, a tribe could take over
16 minerals functions of the Secretary. No tribe has yet but
17 they could.

18 And that won't change with this. So if you've got a
19 TEDO, if you're just doing the TEDO option, you can still
20 take over all those functions of the Secretary that are
21 not inherently federal.

22 And what we're looking into, -- you know, we've
23 referred to this a few times now -- what we're looking
24 into is the list of -- is whether functions are inherently
25 federal or not. And we've got a list of all the various

1 functions that the Secretary performs.

2 And what we're looking into that I've referred to a
3 couple of times is whether those are inherently federal or
4 whether they are contractable. Okay? And that's the
5 review that's not finished yet.

6 But what -- but again, if the Tribe does a TEDO,
7 works with the TEDO, they can still contract out those
8 functions. If a tribe decides not to do a TERA at all,
9 they can still contract out those functions once we figure
10 out what they are. Okay?

11 PAUL REVARD: I would like to say
12 something. My name is Paul Revard. I'm also a Council
13 member, Osage Minerals Council member. Our well records
14 are vital to the development of our Mineral Estate. The
15 oil and gas producers cannot generate and develop their
16 leases without access to these crucial records.

17 It is now the responsibility of the Secretary of
18 Interior to be the custodian and maintain these well
19 records. Why -- why couldn't we, as a nation, take over
20 that responsibility and let us maintain our own well
21 records and let us assume the responsibility to that?

22 STEPHEN SIMPSON: You would need to
23 contract out the -- The well records and all of that are
24 going to be federal records. They are federal records.
25 If you are contracting out -- if the Tribe contracts out

1 the functions of the -- the Realty functions or other
2 functions that the Secretary is performing, again, because
3 it's a contract, they would still end up being federal
4 records.

5 They would still end up being -- they are still --
6 are proprietary information. They still are subject to
7 FOIA. And this is actually addressed in the regulations,
8 in TERA regulations. And so they are still subject to
9 being withheld from release to third parties.

10 The Tribe would have more access to them. The Tribe
11 would have more access to them because they would, in
12 fact, be contracting that out. But they are still subject
13 to not being released to third parties. And it's because
14 we -- we, you know, we want to -- we need to protect.

15 PAUL REVARD: Yeah, but you're not
16 protecting the Osage shareholders in Mineral Estate.
17 These are vital. We will not have a Mineral Estate if we
18 can't have access to well records. There will not be a
19 Mineral Estate left.

20 So in one -- you're saying that you're trying to
21 protect the well records. Well, what about protecting the
22 Mineral Estate? You're killing the Mineral Estate by your
23 protection of our well records.

24 JOHN TAHSUDA: That's a good point.
25 However, for better or worse, and probably for worse, but

1 we have -- we have responsibilities that we have to
2 administer. One of those is the administration,
3 protection of trust assets.

4 And part of what Steve is saying is that the
5 documents themselves are a trust asset that we have to
6 protect. We can't -- until such time as we are authorized
7 to turn that over to the Tribe or somebody else, and we
8 are no longer legally liable and responsible for that, you
9 know, --

10 PAUL REVARD: Well, you're responsible to
11 us in our protection and development, preservation of our
12 Mineral Estate. And so what's more important, a well
13 record with somebody's name and address that's been dead
14 for 110 years?

15 JOHN TAHSUDA: What's important --

16 PAUL REVARD: Or the future of our
17 grandchildren and greatgrandchildren?

18 JOHN TAHSUDA: Part of what we are required
19 to do is to comply with the law. Well records that are --
20 that are done in -- by the oath of our -- held by the
21 Oklahoma Corporation Commission, or held by a county or
22 something like that are not subject to the same federal
23 laws that federal records are subject to. And so that's
24 what we're trying to do. And we are bound to balance out
25 all of those various responsibilities.

1 MYRON RED EAGLE: My name is Myron Red
2 Eagle. I'm with the Osage Minerals Council. And my
3 question is quite simple: If we adopt a TERA and do all
4 the procedures that are required of it, would the funding,
5 -- like the BIA gets funding now, would we get that same
6 kind of funding as they did? Or would they change? Or
7 how would that work?

8 JOHN TAHSUDA: So I guess part of this is
9 answered by Steve's answer. If you're -- if you're
10 assuming a function that is also through the Indian
11 Self-Determination Act which does carry with it if the
12 Tribe assumes that, they get to, you know, assume part of
13 our budget that we would expend for that basically.
14 Right? So that would be part of that process.

15 Again, the Energy Act provides authority for us
16 essentially if we have other funds, extra funds whatnot,
17 that we can use, we can use to provide to the Tribe for
18 The Tribe's assistance. I would say as a matter of
19 practicality, we rarely have extra funds laying around.

20 And so I don't know how much of that, even though
21 the authority to do it, in a practical term, I don't know
22 how much that we would have. However, the funding for,
23 you know, taking over the function, you know, again,
24 that's part of the 638 law that is part of the negotiation
25 we'd have with the BIA in taking over that function, and

1 the funding, any funding agreement that goes with that.

2 CYNTHIA BOONE: I'm Cynthia Boone. And I'm
3 a member of the Osage Tribe. And I'm also a headright
4 owner. Thank you for allowing me the time to speak.

5 My concern when I first got here is whether the TERA
6 is in conflict with the U.S. Congressional Act of 1906.
7 If the Secretary of Interior signs our leases, then that's
8 part of the trust responsibility. The U.S. Congressional
9 Act of 1906 gave us that trust.

10 When you take the Secretary of Interior out of the
11 equation, we lose that trust. I'm concerned that the
12 whole process within Osage Nation is putting our assets at
13 risk.

14 There was someone who posted on the social media
15 that the Minerals Council should be a minerals board.
16 Board members are appointed. That's diminishment of the
17 1906 Act.

18 I'm concerned when the situation was brought up
19 earlier about the rock and the interest from the rock
20 would be up to the Tribe. To me, that's putting one of
21 our assets at risk.

22 I know that our Osage Nation Congress would be more
23 than happy to assist the Minerals Council with any type of
24 legislation regarding a TERA. However, any legislation
25 that our Osage Nation writes can be amended and changed.

1 That's where I feel like our trust assets are at risk.

2 I would like to say that our Osage Minerals Council
3 is elected to protect our assets. And I don't believe
4 that going into the TERA would be in our best interests.

5 I find it interesting that even though TERA has been
6 around since 2005, no tribe has jumped up and said, Hey,
7 sign me up. And I don't know that the Osage tribe needs
8 to be the first people, the first tribe to enter into an
9 agreement of this nature.

10 And because of the uniqueness of the Osage Tribe,
11 and this process within our Osage Nation, I believe, puts
12 us all at risk. And I'm a little bit disappointed to
13 think that our Osage Minerals Council would enter into an
14 agreement with the Osage Nation Congress in the spirit of
15 cooperation and unification because to me the whole
16 process is too risky for our assets. And that's why I'm
17 against the TERA. Thank you.

18 STEPHEN SIMPSON: Thank you, Ms. Boone. I
19 wanted to -- you didn't ask any questions but I wanted to
20 respond to one point which is that by -- Congress set up
21 this trust. Congress passed the 1906 Act.

22 By taking -- so and Congress passed the TERA statute
23 so Congress is the one that is saying if the Tribe enters
24 into a TERA, then the Secretary does not have to approve
25 leases, business agreements, and rights-of-way under the

1 1906 Act or under another act.

2 But what Congress did in that statute, and we still
3 went -- we went through the list of the functions that the
4 Secretary would still perform, -- Congress did preserve
5 the trust responsibility of the Secretary. And so that --
6 that is still there.

7 And that authority, and I will tell you that if the
8 Tribe takes over under a 638 contract, any functions that
9 the Secretary is performing, the 1979, 638 statute also
10 explicitly preserves the trust responsibility.

11 So Congress had all of that in mind. They kept it
12 all there. And they -- they and the department both have
13 all taken it very seriously. And we will still -- we will
14 still be here.

15 LINDA HESKETT: Yes, my name is Linda
16 Heskett. I'm a headright owner and I have been since I
17 was two and-a-half years old.

18 And to me, it seems this is not well thought out.
19 You don't -- you can't answer a lot of questions. It's
20 something that I find very aggravating that the -- they
21 would enter into a TERA when we have the 1906 Act. It's
22 still well and healthy.

23 And on top of that, our esteemed Minerals Council
24 should inform the other 4,000 people who are property
25 owners of this trust. You don't go and start making --

1 have eight or ten people make the statement that they want
2 to go into a TERA without informing the property owners.
3 We own that.

4 And to me, if they want it, buy it. It can be up
5 for sale. Or you can put it to a vote for the headright
6 owners to vote on whether they want this or not. This is
7 something that is going to be, to me, detrimental to the
8 Minerals Council.

9 It will diminish our headrights. It will not give
10 us the power that we need to direct our own ideas of what
11 we want this Mineral Estate to help.

12 And yes, oil is down. It's down because we had no
13 cooperation from the BIA in maintaining our records. It
14 was like Three Blind Mice. And this has -- this has been
15 going on for quite some time.

16 And I do understand that any Nation would go after a
17 billion dollars -- in excess of a billion dollar asset.
18 That's very important. And this is something that the
19 shareholders should not take likely. And I -- I believe
20 there are laws in there for the 1906 Act. And if we have
21 to explore those, we will. Thank you.

22 CHARLES TILLMAN: I don't know if I can
23 stand up or not. But I will do the best I can. I'm going
24 to make a statement.

25 My name is Charles Tillman. I used to be the Chief

1 of the Osage Tribe and all that. In 1978, -- this is kind
2 of a small history lesson -- we were producing 30,000
3 barrels a day, oil. Now, that's not the gas, just oil.
4 And those were the good days.

5 But now we're down to 9,000 barrels a day. And they
6 come in with a new type of set of rules and how we're
7 going to increase that 9,000 barrels back up to 30,000
8 barrels and I don't think we can.

9 So let's get real with this and talk about the trust
10 responsibility that is laid upon you folks right up there
11 in that seat. The Secretary, it sounds like, wants to get
12 out from underneath the trust, or part of it. And this is
13 the first step to do it because without bothering the
14 trust.

15 Next would be the trust. So if that's the case, I
16 would like to know that but I sense that's what's
17 happening here.

18 I read a lot. And I was reading, finding out what
19 Russell Means had to say in the agreement that was made.
20 And he said you broke the trust before the ink as dry on
21 this side.

22 And then there was another thought. His name was
23 Kevin Grover. Kevin Grover was a -- was a man of vision.
24 He was a man that knew a lot of -- he was a very smart and
25 intelligent man. And he made one of the smartest speeches

1 I've ever heard in my life.

2 And if you get the chance, you ought to get that and
3 read it. Because he talked about the policies and how he
4 was going to change it, because he was the Secretary of
5 the Interior at the time.

6 And he said, I'm going to make some changes. And he
7 said it's going to be good for the Osage, or not the Osage
8 but the Indian people overall.

9 We're going to understand what this government is
10 about and how it runs. And he taught us about the nature
11 of how you folks take command from your superiors. And
12 he said it's not me talking. But this is me talking
13 today. And after that speech, they got rid of him. So
14 now he's the Director of the Smithsonian, and I think the
15 Indian Museum over there.

16 But TERA is -- I don't understand it that well
17 because I only read it once. But it sounds like that
18 you're looking at the collection and money to finance that
19 program or new program or whatever we want to do.

20 Now, to do that, it takes money. And you guys can't
21 even finance the BIA in Pawhuska, Oklahoma, today. There
22 is no way that we can keep up with what's out there today
23 because there's no money. There's no financing for people
24 that work out there in the oil fields because there's just
25 not enough of them.

1 At one time, we had, I think it was a little over
2 13,000 wells out there. And we only had five fieldmen
3 working. Now, you tell me how they're going to cover the
4 13,000 wells. You tell me how that they're going to
5 monitor 16,000 tank batteries -- or not, yeah, 16, 16,000
6 -- no, 1,600 tank batteries. And that was the problem we
7 had.

8 And we asked for more money to do that because of
9 the trust. The trust responsibility. If you look up in a
10 legal dictionary and see what "trust" means, it will tell
11 you.

12 It will tell you exactly that you are in charge of
13 that oilfield up there, not us. Yeah, we have a -- we
14 have a counsel that has limited jurisdiction over it.

15 We can approve leases and we can obtain -- the
16 Superintendent can turn those leases around and say, I
17 don't approve them. She can disapprove a lease over the
18 Tribal Council. Which is good because it's a check and
19 balance system.

20 We've already had two councils that have been
21 absolutely -- how would you say impeached over our
22 history. Now, you may not know that but that's the truth.
23 And I know that those people were infracted with
24 making leases that they shouldn't be making for kickback
25 money. All right.

1 So let's go on and say if we had -- if we can't
2 afford what we're doing now, how are we going to afford to
3 add more to it and more responsibility because the Tribe
4 is going to take it over. The Tribe is going to have to
5 take this over and you're going to run it. We can't even
6 run what we've got.

7 And most of it is because of the lack of money.
8 Now, you can blame -- a lot of people blame the
9 Superintendent. And she takes orders from the Area
10 Director. Now, whatever he tells her, that's what she's
11 going to do. That's her boss. He's the one that writes
12 the checks.

13 So don't blame her. Blame the Area Director. And
14 if you can't blame the Area Director, then blame the
15 Secretary because it goes right on up the line to the
16 Secretary. So that's where it stops. The buck stops at
17 the Secretary.

18 But still yet, we don't have that money to operate.
19 It doesn't matter how much you guys will put up there on
20 the board and all those rules and regulations, but if we
21 don't have the money to implement it, then it does no good
22 for us or you either.

23 But you're doing your job. You're doing -- coming
24 down here and telling us how this is going to solve our
25 problem. What's going to solve our problem is how you

1 tell me how you're going to fund that.

2 And is the funding guaranteed? Or do we have
3 funding just for a few years and then all of a sudden
4 we're back to where we are today with more responsibility
5 and a weakened government.

6 Because the government we have right now is covered
7 by the 1906 Act that we implemented a membership
8 agreement. And that's the only time we've bothered that
9 since that. So we relied on it. And we relied on it for
10 a hundred years.

11 But when you look at Russell Means and what he had
12 to say, and Kevin Grover, what he had to say, we're
13 running out of oil. And that's -- there's no doubt about
14 it. You ain't going to put that -- it took a million
15 years to make that barrel of oil and we don't have another
16 million years to go by.

17 So I just want to say that. And I'll shut up. That
18 there's going to be a fossil fuel. The coal, I think, is
19 going to be done away with, even though the politics is so
20 great with it because of the trainload of coal that comes
21 out of the northern states down here to operate these
22 generators to generate electricity.

23 So they kind of go to natural gas. And we've got a
24 little bit of that left. So how do we capitalize on
25 natural gas? Well, we need an expert to tell us how to do

1 that because we don't know.

2 We don't have the people in Osage in the Osage
3 agency right now to help us determine what the reserves
4 are, and how much production there is and where it is. We
5 just do the best we can in going out there and reading
6 what the wellhead tells us. That's all we've got.

7 So I'm not saying I'm for it. But I'm not against
8 it. But I'm going to tell you this. I'm going to really
9 take a strong look at it.

10 And if I see that there's something wrong there and
11 the Secretary is trying to weaken the Osage Tribal
12 regulations, then that's when I'm going to start fighting
13 with him, and tell him you're wrong. You're just trying
14 to get out from your responsibility, sir. And that's all
15 I have to say. Thank you.

16 MARSHA HARLAN: Good morning. I'm Marsha
17 Harlan. I'm a member of the Osage Minerals Council. And
18 first off, I would like to thank all the shareholders for
19 appearing here today.

20 I know several of them believe a decision has been
21 made. I, for one, have not made a decision. I would like
22 to concur with Chief Tillman on this. And I would like to
23 know some more answers before I make a decision and vote
24 as a member of the Council.

25 But I do have a question for Mr. Simpson. Several

1 times this morning you said you're not exactly sure of
2 what duties will be available under the TERA, that you're
3 looking at the list, that you're considering what type of
4 functions the tribes might be able to take over.

5 And it occurs to me that the last comments are due
6 September 3rd, the final rules to be published December
7 18th. Do you have any idea when you might be able to tell
8 us what kind of functions there are?

9 Because you're asking for comment from us but we
10 don't even know the whole story yet. And so do you have a
11 timeline? And are you going to publish that to,
12 particularly, the Osage? I'm sure other tribes would like
13 to know. But my interest is for the Osage. Thank you.

14 STEPHEN SIMPSON: Unfortunately, the --
15 unfortunately, I don't. The decisions as far as what
16 functions are contractable and what are inherently federal
17 is being made at the highest level of the department.
18 Chief Tillman said where the buck stops. That's where it
19 is, in the Secretary's office.

20 And therefore, I couldn't -- I am so far down below
21 that, I couldn't -- John couldn't tell you either. Mark
22 couldn't tell you either. No. We -- we don't know.

23 They -- they will release it when they're ready. I
24 can tell you that it -- I am sure that it will be a -- I
25 think it's set up right now for a secretarial order. I'm

1 sure that it will be publicized, and we will -- and y'all
2 will know.

3 And we -- and we will probably, I assume, get it out
4 to the tribes. Yeah, we'll get it specifically out to the
5 tribes including the Minerals Council and the Osage. Go
6 ahead, John.

7 JOHN TAHSUDA: Let me address a little bit.
8 So I've been in on those discussions as we worked it out.
9 There's a -- there's a -- it's a gentle crossover.

10 There's significant legal questions that need to be
11 addressed and answered. There's also, you know,
12 administrative or functional questions to be addressed as
13 well.

14 And it's not just an Indian affairs discussion. It
15 involves, you know, the land and minerals offices as well,
16 and BLM. So it's taking a long time to get through all of
17 those discussions.

18 And again, it doesn't impact you as much here. But
19 in other parts of the country, the BLM performs an
20 substantial number of functions that deal with mineral
21 development on Indian lands as they do for other federal
22 lands.

23 So there's a lot of discussion with that. It is --
24 it is now on what we call the 6th floor of the Secretary's
25 consideration and his team. And so I think that our goal

1 -- and I don't want to get ahead of anybody here -- but I
2 think the Secretary hopes that we can -- that his decision
3 on this, -- and I think it will take the -- it will take
4 the -- it will be a secretarial order is how it will come
5 out of the department.

6 So that it has sort of his stamp of approval on it.
7 At least that's the plans I know as I understand it now.
8 I think that the goal is so that it can go sort of hand in
9 hand with the regulatory changes.

10 So I would anticipate that we -- I mean, my hope is
11 that we will be able -- that the Secretary will be done
12 with his review and then can get that completed within a
13 month or two. So before this is finalized, the hope is
14 that we can have that out so that they can be
15 complementary.

16 MARSHA HARLAN: While I appreciate your
17 attempts to give me an answer -- both of you gentlemen --
18 I would like my comments specifically to reflect that I
19 think it's inherently unfair that you're asking us to
20 comment by September 3rd when we don't even know what
21 functions are a possibility yet.

22 And so I would like that to be part of the record is
23 you're kind of asking us to come in with our hands tied
24 behind our back a little bit. Thank you.

25 JOHN TAHSUDA: You just said it. It is

1 part of the record. So point well taken. I understand
2 that. Although -- so this comment period is specifically
3 on this proposed regulation, though.

4 And for the effective functioning of these
5 regulations, we, of course, need that piece of it. But
6 that's not something that is part of the formal comments.
7 What we're hoping to get is your thoughts and comments on
8 these proposed regulations.

9 PAUL REVARD: I have a question again.
10 Paul Revard again with the Osage Minerals Council. Both
11 the documents, the TERA as well as the TEDO, are these
12 instruments that will be signed and approved by the
13 Secretary of Interior?

14 STEPHEN SIMPSON: Or I think, or his
15 designee, right.

16 PAUL REVARD: They will be?

17 STEPHEN SIMPSON: Yes.

18 PAUL REVARD: In and of itself, is that not
19 a federal enactment?

20 JOHN TAHSUDA: I don't know if that's been
21 addressed yet. So the approval of it may or may not
22 trigger a federal review, because there -- that is a
23 federal action, approving the TERA, even though that's not
24 -- even though there's no formal. But there's no --
25 there's no groundbreaking action taken. But it

1 contemplates it.

2 STEPHEN SIMPSON: It is -- it is a federal
3 action.

4 PAUL REVARD: Would that --

5 STEPHEN SIMPSON: The authority, the
6 argument that we will be making -- and it is just an
7 argument -- there is authority under NEPA that if another
8 statute, the time frames of another statute are in
9 conflict with the NEPA process, then the other statutes
10 control. If there are mandatory time frames in those
11 other statutes, then we would -- we can not have to do
12 NEPA.

13 And it's -- it is specifically for something like
14 this where we have 90 days to certify a TEDO. There is no
15 way that we would be able to do an environmental
16 assessment and get it all done in 90 days.

17 And so if we have -- and Congress has just added --
18 added more weight to that by saying that if we don't do a
19 -- meet those time frames, those are -- they're deemed
20 approved.

21 PAUL REVARD: Well, that's going to be one
22 -- one, not the most important, but one of the enticing
23 things about possibly entering into this is that it -- to
24 maybe avoid the burdensome regulations under NEPA.

25 STEPHEN SIMPSON: Right.

1 PAUL REVARD: So we kind of need to know
2 the answer to that before we would be able to decide among
3 ourselves if we want to participate.

4 STEPHEN SIMPSON: Well, we are -- we are
5 assuming that either we will have to do -- and there is
6 some discussion of this in the TERA regulations. We may
7 have to -- we may -- may need to do a NEPA review for
8 approval of the TERA itself although we're hoping that
9 that provision of the -- that case law will help with
10 that.

11 There will be, if the tribe enters into a TERA with
12 the Secretary, as I said, there would not be NEPA review
13 for the leases, business agreements, and rights-of-way
14 under that. There would, however, be the Tribe's
15 environmental review.

16 MARGO GRAY: This is Margo Gray with the
17 Osage Minerals Council. My question is: Since 2005 -- I
18 know that this was a revision of the 2005 TERA -- during
19 that time how many tribes, like, what are the success
20 stories of the tribes that have entered into these
21 agreements and also on TEDOs as well.

22 STEPHEN SIMPSON: There have been -- no
23 tribe has entered into a TERA yet. We had discussions
24 with -- with several tribes about doing that. And they
25 started some of the process. But no tribe has actually

1 even -- even submitted an application so far.

2 And the -- the remark was made earlier about the
3 time frames here. Congress has tried to fiddle with this
4 statute from time to -- to amend the statute from time to
5 time to encourage tribes to apply.

6 Some of those were changing the time frames although
7 we noted that we hadn't had one yet so we didn't know that
8 the time frames were going to be a problem
9 administratively speaking. But that's -- those
10 amendments, those earlier amendments did not pass.

11 These did. And so that's what Congress is trying to
12 do here is to address some of the issues that tribes
13 pointed out were -- were problems with the statute and why
14 there may not have been some things that may have caused
15 tribes to not apply.

16 And I would tell you that, in fact, one of them --
17 because the Tribe told me -- I won't say who it is -- but
18 there was one tribe that wanted to know what they could
19 contract before they applied. And we were unable -- we
20 told them to go ahead and apply and we'd tell them then.

21 Because that's the way those things are often done.
22 And so that's one of the reasons why this -- why this
23 secretarial order that we keep talking about but can't
24 tell you what it is is being done.

25 But that's -- so there are no TERAs right now.

1 There is no track record. And that's what Congress is
2 trying to fix. And we're trying to fix.

3 MARGO GRAY: Okay. With that being said,
4 I'm not sure who wants to be the guinea pig on this. So
5 the other part is did you all factor in before you
6 released this that the economics of what this could do or
7 how this could impact, say, several different tribes, from
8 a small tribe, from a large land-based tribe, with the oil
9 and gas?

10 Because now I have some serious concerns that this
11 has never been done. And even if you tweak these laws,
12 and we're not clear in your answers of what it is because
13 you cannot tell us about these inherent functions that we
14 know that we have but the functions that you're
15 presenting. So I'm not sure there's really a question
16 there; but...

17 STEPHEN SIMPSON: Well, but let me do -- we
18 do have a similar experience with a similar statute. Let
19 me go back and amend what I just said.

20 As I said earlier, in 2012 Congress passed something
21 called the HEARTH Act. And that was to allow the Tribes
22 to take over, to issue service leases, and approve service
23 leases without, for residential development, for wind, and
24 solar development, for businesses without TERA approval.

25 And in order to do that, the Tribe needed to pass

1 and have approved by the Secretary, regulations for
2 leasing that were consistent with our leasing regulations.
3 Over 30 tribes have done that and gotten approval for
4 HEARTH Act leases. That is going very well.

5 And they are, -- it's -- they are out there doing
6 it. It has not caused any issues. And there are more
7 tribes in the pipeline to get approved. It is -- it has
8 worked very well for them.

9 So while we don't have a track record on TERAs, we
10 do under the HEARTH Act and with the same type of
11 arrangement with the tribes doing -- doing these -- those
12 land development activities without our approval. And
13 it's -- and it's working.

14 MARGO GRAY: Okay. So I want to go back to
15 my original question. Do you have, or have you had an
16 economist look at the possibility of our -- can you show
17 something that there has been that this will work?
18 Because I know that Congress is wanting, we have this
19 administration that is wanting to utilize domestic oil and
20 gas but also looking at the tribes for an answer.

21 But I haven't heard the economics of this. And I
22 believe that we, as tribal leadership, have the
23 responsibility to get that information and also because
24 we're going to have to relay this to our constituents.

25 JOHN TAHSUDA: Let me -- so I think the

1 answer is probably not what you want to hear but it's
2 pretty simple. This is a Congressional action.

3 They enacted the changes -- they enacted the
4 original law, they enacted changes to that. The
5 regulations that we have proposed in front of you are to
6 address those changes in the law and to conform our
7 regulations to that.

8 Any economic analysis done, whether it be done by
9 Congress in '05 and follow-ups, I think that would -- you
10 know, because they're the ones passing the law and the
11 authorities that we can exercise under it. So in
12 preparing these regs, you know, there's not really any
13 economic analysis on our part because we're just saying
14 how we're going to implement the changes in the law to
15 Congress.

16 MARIA WHITEHORN: My name is Maria
17 Whitehorn. I'm on Osage Nation Congress. And I'm
18 familiar with our Minerals Estate. I look into it quite
19 often.

20 But I would like to continue on with what she was
21 talking about of economic impact. I do believe that
22 that's a part of negotiated rulemaking. And am I
23 incorrect in my assumption?

24 JOHN TAHSUDA: Formally, this is not a
25 negotiated rulemaking. This is just a rulemaking.

1 MARIA WHITEHORN: It's a rulemaking. All
2 right. So there's no negotiation. So economic impact is
3 not -- regular rulemaking.

4 JOHN TAHSUDA: Correct.

5 MARIA WHITEHORN: So there's no
6 negotiations, you're just telling us what the rule is,
7 putting it out there, and allowing us to comment?

8 JOHN TAHSUDA: Right.

9 MARIA WHITEHORN: No negotiations. Okay.
10 Thank you for clarifying that for me. I would also like
11 to ask about -- somebody needs to help me get clear on
12 this.

13 When we lease -- our environmental council enters
14 into a lease with a producer, that action of just entering
15 into a lease does not trigger NEPA, just the action of
16 leasing?

17 STEPHEN SIMPSON: The Minerals Council's
18 action?

19 MARIA WHITEHORN: When we have a buyer, --

20 STEPHEN SIMPSON: Okay.

21 MARIA WHITEHORN: When we sell and they
22 come to buy, and they come and purchase a lease, --

23 STEPHEN SIMPSON: Uh-huh.

24 MARIA WHITEHORN: Their payment to us, the
25 approval by the Minerals Council, send it over to the

1 Secretary, does that --

2 STEPHEN SIMPSON: The approval by the
3 Minerals Council does not trigger NEPA.

4 MARIA WHITEHORN: Okay.

5 STEPHEN SIMPSON: The approval by the
6 Superintendent does.

7 MARIA WHITEHORN: So I'm really unclear how
8 the person can purchase the lease and make a payment for
9 the lease before NEPA is put into force.

10 STEPHEN SIMPSON: They don't.

11 MARIA WHITEHORN: I'm unclear on that.

12 STEPHEN SIMPSON: They don't. They can't.
13 The lease is not effective until the Superintendent
14 approves it.

15 MARIA WHITEHORN: Okay. And so they do
16 have to, just in order to lease it, fulfill all leasing
17 requirements?

18 STEPHEN SIMPSON: Yes.

19 MARIA WHITEHORN: That's just not -- that's
20 just not on the permit to drill?

21 STEPHEN SIMPSON: That's right.

22 MARIA WHITEHORN: So then they have to go
23 to NEPA and Fish and Wildlife regulation again to access
24 to the permit to drill? They have to --

25 STEPHEN SIMPSON: Yes.

1 MARIA WHITEHORN: -- go through that twice?

2 STEPHEN SIMPSON: Because that's another
3 federal action. We are trying right now, we're working
4 right now on an environmental impact statement that would
5 help with that as you probably are aware.

6 MARIA WHITEHORN: Right.

7 STEPHEN SIMPSON: But, yes. Right now
8 there is a NEPA requirement or -- there is a NEPA
9 requirement for every federal action.

10 And even, there is -- there is a requirement to do
11 NEPA is a very short bit of NEPA, a very quick NEPA
12 review. But there is, in fact, a NEPA review issued for
13 the Department of the Interior to issue my paycheck
14 because that's a federal action. Okay?

15 It gets to that level of detail. That said, so,
16 yes, there is a NEPA review for the lease because you're
17 approving the change of that land and the use of that land
18 into oil and gas. Okay?

19 There is a NEPA review for the APD because now we
20 know where the wells are going to be and people can
21 actually drill. And so then we have to assess the
22 environmental review, the environmental impacts of that.

23 There is also a NEPA review for workovers of that
24 well because those could have environmental impacts as
25 well and we have to approve those. That's why we're doing

1 medi a ads.

2 MARIA WHITEHORN: Well, the reason I asked
3 the question is because I haven't heard any complaints
4 just by -- about the leasing of an oil and gas lease.
5 Where I hear that there's a problem is when they're trying
6 to achieve getting their permit to drill.

7 That's -- so you're telling -- I believe I heard you
8 say that that was probably not a federal function, issuing
9 an approval to drill that the Federal Government was going
10 to be willing to release. And to my knowledge, that's
11 where we're having the issue with NEPA and Fish and
12 Wildlife is the permit to drill.

13 STEPHEN SIMPSON: The issuance of the APD,
14 the approval of the APD is one of the functions that the
15 Secretary's looking at. Okay? But even -- but what I
16 said was even if the Secretary determines -- and again, as
17 John points out, it's the Secretary himself.

18 The Secretary determines that we can contract out
19 the approval of an application for a permit to drill.
20 That is still because it's under contract, it is still a
21 federal function and may still require an approval.

22 MARIA WHITEHORN: What is the TERA
23 considered, Tribal Energy Resource Agreement? Is not an
24 agreement between a nation, two nations, a contract?

25 STEPHEN SIMPSON: It is.

1 MARIA WHITEHORN: So to me, then how are
2 you getting rid of all these other federal requirements
3 such as NEPA? I'm trying to -- trying to follow you here.

4 STEPHEN SIMPSON: No, I understand.

5 MARIA WHITEHORN: Because it doesn't make
6 sense to me.

7 STEPHEN SIMPSON: I understand. NEPA is --
8 again, NEPA is triggered by the federal approval. What
9 Congress in did the federal -- in the tariff statute and
10 what can happen under the TERA regulations is removing the
11 federal approval for leases, business agreements, and
12 rights-of-way.

13 So if there is no federal approval, there is no
14 NEPA. Okay? But they did it specifically. And even when
15 they changed the statute to say what we had already said
16 in the regulations that tribes can take over other
17 functions, what Congress did not say there is that if a
18 tribe takes over those other functions, then the
19 Secretary's approval then is no longer a federal act.

20 Those are no longer federal actions either for
21 purposes of NEPA. So that's why the exempt -- the
22 nontriggering of NEPA only applies to the approval of the
23 lease, the approval of the business agreement, or the
24 approval of the rights-of-way.

25 MARIA WHITEHORN: Okay. So any other --

1 STEPHEN SIMPSON: Any other -- any other
2 functions that the Tribe is taking over as a contractor
3 from the Federal Government would still be subject to NEPA
4 review.

5 MARIA WHITEHORN: Okay. Thank you. That
6 helped me understand that a little bit better.

7 STEPHEN SIMPSON: Good, good.

8 MARIA WHITEHORN: If I may continue, --

9 STEPHEN SIMPSON: Go ahead.

10 MARIA WHITEHORN: Congressmen looked at the
11 dollars and cents of things. I know what we have right
12 now in appropriated funds to last us till the end of this
13 school year.

14 I've heard comments made that this isn't a compact
15 or a contract. I -- I tend to disagree. I think that if
16 we're making an agreement, it's a contract.

17 Currently, the Osage Nation is not a compacted tribe
18 in offices of governments. We operate under 638 contract.
19 In fact, when we took over Realty two years ago, it was
20 not done with any Congressional action, the Chief just
21 signed a contract to take over our Realty office.

22 STEPHEN SIMPSON: Right.

23 MARIA WHITEHORN: Which he could actually
24 do to take over Minerals, too, if he wanted to. He hasn't
25 done that. He said he wouldn't do that.

1 So currently, I feel like our BIA is severely
2 underfunded. And I see the little carrot that's dangled
3 out here that "any residual funds, we get."

4 Well, you can't write a budget on the hope of
5 residual funds that are left over. So depending what
6 functions we decide to take over, we will sign a contract,
7 a 638 contract, for those functions.

8 STEPHEN SIMPSON: Right.

9 MARIA WHITEHORN: There will be
10 negotiations. The Federal Government will tell us how
11 much money we're going to get to that.

12 Tribes compact to make things better for their
13 people. They don't contract with the government to make
14 money because there's no money there. So I think we need
15 to do some economic analysis of how much it costs to run a
16 1.5 million acre oil, Minerals Estate.

17 Because as Chief Tillman says, it's going to cost
18 money. And the Federal Government isn't doing the job
19 right now it needs to do. So I agree with Councilwoman
20 Gray. If we don't do a really good study on this, it's --
21 it could be a detriment to us. Thank you.

22 JOHN TAHSUDA: Thank you. So we had a
23 request to take a quick break. Can I get a show of hands?
24 Is there -- if there's enough people that want to take a
25 break, we can do that. Okay. Why don't we do it. We can

1 keep it to, like, five minutes. So we'll take, like, a
2 five-minute break and then come back.

3 (Whereupon, there was a recess taken.)

4 JOHN TAHSUDA: If you guys are ready, we
5 can get started again. Thank you. We can pick up where
6 we left off. It's 11:35 now. So I'm happy -- I know we
7 were originally supposed to stop at 12. But I'm happy to
8 go to 12:30. I think that will be plenty.

9 We'll start -- some of my staff, I think, might have
10 to -- they're going to be pushing it. So we need to cut
11 it off about 12:30 but we can go at least that long if
12 there's more questions.

13 PAUL REVARD: Okay. I actually have
14 another question. Paul Revard again with the Osage
15 Minerals Council.

16 Going back to the previously asking, partially
17 answered question. Chief Tillman has brought it up as
18 well as some of the others about the funding for taking
19 over some of these responsibilities.

20 I do know for a fact that our current Osage Agency
21 is overwhelmed with work, backlog permits, and various
22 things which have been significantly improved upon since
23 we've been in office with this Osage Minerals court. But
24 still purportedly understand.

25 And I don't know what their budget is. I would just

1 briefly say some of us went on kind of an educational trip
2 to Oklahoma City to meet with the commissioners of the
3 land.

4 It's a department under the State of Oklahoma that
5 manages oil and gas drill rights on land set aside for
6 schools for the State of Oklahoma. They don't have a
7 fraction of the wells that we have.

8 And they have -- they maintain a staff of about 15
9 people, built beautiful offices in downtown Oklahoma City.
10 And they told us that they had a budget of \$1500. I don't
11 know what our Osage HC's budget is. But that's just kind
12 of to give you a feel for something to compare to.

13 If we were to take over these responsibilities that
14 Superintendent Phillips is already performing, and already
15 understands, and hardly -- you know, barely keeping their
16 head above water to keep up with all the work that they're
17 tasked to do, how can you expect us, through a tariff, to
18 duplicate that, also being understaffed and under budget.

19 If we entered into a tariff, could there be some
20 type of language that it would be with the caveat that
21 provided that there be ample funding for us to actually
22 perform this with any degree of professionalism and
23 success? So I'm -- I'm asking.

24 You already said that if there was some residual
25 revenues or something that maybe we could tap into. But

1 it's like it was said by our Congresswoman, we can't -- we
2 can't make future plans based on maybe and what-ifs. So
3 what -- what possibility is there for us to obtain
4 additional funding beyond what Superintendent Phillips is
5 already receiving to perform the same task?

6 JOHN TAHSUDA: So this, I think, is
7 probably best seen as Steve and I described a little bit
8 as the interplay between the TERA, the Energy Act, TERA
9 provisions, and then the contracting of federal functions
10 through the 638 primarily.

11 Because if you go beyond just the authority of the
12 TERA to approve the leases, rights-of-way, et cetera, then
13 in talking down to the level of EDs, et cetera, then those
14 are functions that are borne by our -- I'm sorry -- those
15 are -- those are functions that will be performed in the
16 agency office. All right.

17 So to turn those over, -- and we have to have
18 authority to do it, -- 638 is one of those authorities to
19 do it. That's where the funding to do those functions
20 resides.

21 We don't have -- like I say, we don't have any
22 money, budget, we don't have budget authority sitting
23 around other places that could just be transferred in
24 anything like that. That's where the -- basically, the
25 budgets you perform those functions resides, at the agency

1 office.

2 So to -- to take it over, you have a negotiation as
3 we do with other 638 self-determination contracts. We
4 have negotiation over the functions that you're assuming,
5 the staff that we have at performing, et cetera, or why
6 that, a number of -- that you contract for and you get
7 contract support costs.

8 So that -- that is sort of functionally how I -- you
9 know, how I see it working at this point on that, so on
10 the actual dollar side of that. So if you start with the
11 understanding that some of our -- one of our bosses has
12 described it this way.

13 For the BIA we have responsibilities that are like
14 this big (indicating) and we get a budget every year from
15 Congress to meet those responsibilities, a budget that is
16 about this big (indicating). And that's just a function
17 of what we have to work with.

18 And so then when you slice that up into all the
19 weird things that the BIA does, right, and we get down to
20 where we are. I wouldn't hazard a guess that there's
21 probably no regional director, no agency superintendent
22 who says they have enough funding to do everything that
23 they're supposed to do anywhere in the country. So that's
24 sort of a reality that we deal with every day.

25 PAUL REVARD: Do you concur with that? Do

1 you acknowledge that our Osage Agency is, in fact, under
2 funded?

3 JOHN TAHSUDA: Well, let me -- let me
4 finish my thought. So I think that you have to understand
5 the sort of budget world that we live in, right? And then
6 you have to factor in as well it may be even more of a
7 crunch than the actual budget is the ability to get people
8 to go to remote offices to work, people that have
9 professional skills, et cetera, that are needed in those
10 offices to work for a Federal Government salary in a
11 remote location, et cetera.

12 And so everywhere in the country, and I'm going to
13 guess that Robin probably has the same challenge. We have
14 a hard time also getting folks to fill into those slots.
15 And so it's really a combination, I think, of the budget,
16 sort of crunch that we have every year, and the inability
17 to find qualified people who are willing to go in, into
18 those offices.

19 PAUL REVARD: Well, that's a good point.

20 JOHN TAHSUDA: I think -- I think that
21 leaves open -- let me just finish my thought. Through
22 this process, and it's my experience in watching this
23 unfold in other parts where tribes have self-governed or
24 self-determined contracted positions, that they, at least,
25 can do it the way they want to do it when they contract

1 that.

2 So I don't know that we can solve the budget issue,
3 as you see it. But if the tribe took over those spots, at
4 the very least then you have the ability to try to hire
5 people maybe better than we could to get into those --
6 into those jobs.

7 PAUL REVARD: Well, you brought up a good
8 point about the venue of where all this work takes place.
9 And I realize that Pawhuska, although it's experiencing a
10 miniature boom right now which is really nice to see.

11 But is there any reason why the Osage agency meet
12 operations has to be conducted on the hill? If we were to
13 take over some of these functions, could we actually
14 relocate the personnel that would be required to a more
15 populated area such as Tulsa or Bartlesville where there
16 is more housing, more infrastructure to, you know, to have
17 applicants for these positions to where they could
18 possibly work in these metropolitan areas without having
19 to relocate? Would we be receiving enough funding to
20 open up a satellite office in a near metropolitan area?

21 JOHN TAHSUDA: Well, that's not an easy
22 answer. I think it would be something that maybe Eddie --
23 you need to talk with Eddie and Robin more directly about.

24 But conceptually, right. When the tribe contracts,
25 you get the funding to perform the function and you also

1 get a little bit of funding as we would do for the
2 facilities, and so, if needed, the facilities to perform
3 that function.

4 However, then it becomes a question, which -- you
5 know, if we have the facility there for you to perform the
6 function in, is it smart budget wise for us to pay you to
7 go somewhere else to perform the same function, and we
8 have to pay for your facility there as well while we're
9 still paying for the facility that we have at the
10 location?

11 I mean, that's -- that's a challenge that I see. I
12 don't know if Eddie -- Eddie actually does -- I've never
13 actually had a direct negotiation. Eddie has. I mean,
14 you might -- that would be something to talk through. But
15 I would see that as a budget challenge in their mind.

16 PAUL REVARD: Eddie is here, right?

17 JOHN TAHSUDA: He is. He is right back
18 there (indicating).

19 EDDIE: Well, it's interesting you bring
20 that up. That is something that we have thought about in
21 the past. Because obviously, Tulsa County, Osage, had
22 their jurisdiction combined into the casino over there.
23 And it is something that has been kicked around to move
24 some of it over there.

25 So I wouldn't say anything's off the table. We're

1 just getting all the incidental money that you
2 (i ndi scerni bl e).

3 UNKNOWN SPEAKER: This is (i ndi scerni bl e),
4 Osage shareholder. When we -- should we get involved with
5 a TERA, accept money, and expend that money, and then on
6 down the road somewhere decide that we want to rescind the
7 TERA, is that money due back? Do we have to repay any of
8 that?

9 JOHN TAHSUDA: No. So again, you know,
10 since we haven't done it before, we're kind of talking,
11 you know, theoretically or conceptually. But so if you
12 compacted or contracted functions, the way it works, and
13 the Tribe can turn that back over to the Federal
14 Government, you don't have to pay anything back.

15 The Federal Government reassumes those
16 responsibilities. You, of course, don't receive the
17 funding anymore because you're not doing the contract.

18 The only time that I guess that there would be a
19 payback is if it would be the tribe never actually did the
20 work. Right? So you got money but you didn't do the
21 work. And, you know, that happens every once in a great
22 while with tribes.

23 You know, they'll turn something back over and we'll
24 find out that they really didn't do what they were
25 supposed to be doing. There's a whole process to address

1 that, you know, with the department.

2 But that's -- but generally speaking, if you have
3 been performing and then you decide you don't want to or
4 can't do it as well as you would like to, we'll turn it
5 back over to our government, you just turn it back over
6 and we reassume it.

7 STEPHEN SIMPSON: And there is discussion
8 in the process for rescission in the regulations, not in
9 the proposed rule that we're talking about because we're
10 not changing that hard rule. But it does -- it does talk
11 about records coming back, coming to the Government. And
12 any -- any departmental resources that you're using being
13 returned to the government.

14 But that is not money. That's -- that's other kinds
15 of -- other kinds of things. If you're occupying offices
16 in the agency, you can't occupy those offices anymore.
17 Okay?

18 You can't use our computers anymore, that kind of
19 thing. But, no, the money is not -- is not one of those
20 things.

21 DAVID MULLON: Thank you. My name is
22 David Mullon. And I work for the executive branch for
23 the Chief's office at Osage. And on the issue of funding
24 that has been raised a couple of times, I just want to
25 point out that there is a specific provision in the

1 statute that deals with making funding available. Okay?

2 And I -- I will just mention this. I know that
3 Steve and John know that I worked on the statute back when
4 the Senate committee developed it. And that was a
5 provision of specific concern and focus on Congress when
6 this bill was being considered, before it was enacted.

7 And you'll see that there's a lot of direction in
8 there about funding. It's not related to the 638 process.
9 But there's an independent funding provision in there that
10 talks about how funding is made available, how it should
11 be calculated and also, most importantly, that that
12 process is to be developed in the regulations.

13 There's a specific provision in the law that says be
14 sure to develop the funding calculation process, and do
15 that in the regulations. There's very clear direction
16 that the regulations are to address that funding process.

17 To make a long story short, if the Tribe takes on a
18 function or an activity under the TERA process that the
19 BIA used to do but doesn't anymore because now the Tribe
20 is doing that particular function, whatever that might be,
21 then the funding that is freed up, because the BIA does
22 not have to perform that function anymore, is part of what
23 goes over to the Tribe.

24 And so it's not -- it's not like if there's some
25 spare money blowing around in the agency, that you can

1 make that available. But it's more like if we're doing it
2 now instead of you, then that money that you used to use
3 goes over to the Tribe.

4 So but take a look at that. I just urge you to.
5 Because there's a lot of direction and, you know, guidance
6 given in the statute itself regarding how that issue ought
7 to be raised.

8 STEPHEN SIMPSON: We will.

9 DAVID MULLON: It should be part of
10 regulations, yeah. And it's not really very well
11 addressed in the regs. It looks like a placeholder in the
12 proposed rule. But I just urge you to take a look at that
13 and listen to the, maybe input from the tribes on that.

14 CYNTHIA BOONE: Cynthia Boone, Osage tribe,
15 headright holder. I would like to do a follow-up question
16 to what happens if we mess up with this TERA and we want
17 to give it back?

18 What's the time frame for giving it back? Is it two
19 years, 10 years? I would like to have an answer to that.

20 STEPHEN SIMPSON: It is -- I don't know
21 that there is a time frame, but I'm looking it up.

22 JOHN TAHSUDA: There's a couple of
23 different provisions. So there can be reassumption if --
24 and really, it's on -- it's one-sided if it is the trust
25 responsibility role. If the Secretary thinks that there

1 is imminent harm to the trust asset, we can basically do
2 an immediate reassumption to protect the trust asset.

3 Then there is a more process laden provision for the
4 tribe to turn it back over. You can submit a notice, if
5 you want to, you know.

6 CYNTHIA BOONE: You said -- excuse me, you
7 said you submit a notice to return?

8 STEPHEN SIMPSON: Well, if -- yes, if you
9 -- if the tribe, for reassumption, that's more driven by
10 the Secretary which I was talking about us taking it back.
11 And that's more driven by us. And we have to give the
12 Tribe all kinds of rights under the statutes and
13 regulations before we do that.

14 The rescission, the Tribe handing it back, okay,
15 that is at the application of the Tribe. There needs to
16 be a tribal resolution saying we want to hand this back to
17 you. But there is no time frame.

18 It could be -- there is no time frame for when the
19 Tribe can give us a resolution. They can ask for it to be
20 -- to give it back at any time. It becomes effective 90
21 days after we get that request. Okay? But the Tribe can
22 make a request to hand this back at any time they want.

23 CYNTHIA BOONE: And what part of the Tribe
24 are we referring to that would do the resolution? Would
25 it be something you would receive from --

1 STEPHEN SIMPSON: It would be --

2 CYNTHIA BOONE: -- Osage Minerals

3 Council, --

4 STEPHEN SIMPSON: No.

5 CYNTHIA BOONE: -- or the Osage Nation?

6 STEPHEN SIMPSON: It would be the Nation.

7 CYNTHIA BOONE: The Nation. And if it were
8 to go back, will it go back exactly the way it was before
9 we ever took over?

10 STEPHEN SIMPSON: Yes.

11 CYNTHIA BOONE: Okay. Thank you.

12 STEPHEN SIMPSON: That's why you're giving
13 back the departmental resources, and you're giving us the
14 records and all that.

15 CYNTHIA BOONE: Thank you.

16 STEPHEN SIMPSON: Because it goes back to
17 what it was, yes.

18 KASIE NICHOLS: Hi. I'm Kasi e Ni chol s wi th
19 Ci ti zen Potawatomi Na ti on. So probab ly the only non-Osage
20 Na ti on re pre sen ta ti ve here.

21 UNKNOWN SPEAKER: No, you're not.

22 KASIE NICHOLS: So I had kind of maybe a
23 process question. Let's just say that the Tribe has an
24 approved TERA.

25 So we're into the implementation process and the

1 Secretary now is ready to review and evaluate the
2 implementation of the TERA. So who does that? I'm
3 assuming it's the Office of Special Trustee.

4 STEPHEN SIMPSON: No, no.

5 KASIE NICHOLS: Okay. So could you clarify
6 that? Is it separate? And because in the regulations
7 right now it says there's an annual review for three
8 years, is that correct?

9 STEPHEN SIMPSON: Yes.

10 KASIE NICHOLS: And then there's an option
11 maybe to do that every two years thereafter.

12 STEPHEN SIMPSON: Right.

13 KASIE NICHOLS: Okay.

14 STEPHEN SIMPSON: It is -- one of the
15 changes that we're making to the -- proposing to make to
16 the regulations on this point is you will see throughout
17 the regulations now it refers to the director. And the
18 director is the Director of the Office of Indian Energy
19 and Economic Development who is under the Assistant
20 Secretary of Indian Affairs.

21 What we're proposing to change that to is the
22 Secretary not because the Secretary of the Interior
23 himself will be doing all this, but because that's how we
24 usually write regulations. And it allows for delegation
25 to whoever the Secretary delegates it to.

1 But the way it would actually operate is as we're
2 conceiving of it right now, is that -- and the reason I'm
3 hesitating is only because the Secretary can change this,
4 can change delegations at any time. Right?

5 But the current -- it would operate such that, yes,
6 the application would come to the Secretary. It would be
7 routed to -- delegated to the Director of the Office of
8 Indian Energy and Economic Development -- okay -- who
9 again is under the Assistant Secretary of Indian Affairs.

10 That office would do processing of it in contact, in
11 consultation with other portions of the department. If
12 there are -- if it involves Indian minerals that are not
13 Osage, okay, it would -- that consultation would be with,
14 among others, the Bureau of Land Management who does a lot
15 of the inspection and enforcement stuff for Indian
16 minerals outside of Osage that the BIA does have.

17 It would also be with the Office of Natural
18 Resources Revenue who are the people who collect revenues.
19 It would be with the Office of the Special Trustee. It
20 would be with the Office of the Solicitor so there would
21 -- it takes a village inside the department.

22 And they would marshal all those folks. And we
23 would all be reviewing this. Similarly, the
24 administration of the TERA, we would all be involved as
25 well.

1 But so it is done, it is largely, at least as
2 delegated, as currently delegated, it was largely comes
3 under IAD which is again under the Assistant Secretary of
4 Indian Affairs. And they're looking forward to having a
5 TERA to review; so -- they just haven't had one yet.

6 JOE TILLMAN: Good morning. My name is Joe
7 Tillman. I'm Speaker of the 606 Nation Congress. First
8 of all, we would like to thank Chief and I would like to
9 thank Chairman Waller. I would like to thank members of
10 the Minerals Council that are here, those of the
11 Congressional body that are also in attendance,
12 shareholders, Osage constituents.

13 And as Speaker of the Congress, I feel obligated
14 that I need to come up and say a few words. I begin with
15 a lot of the things that my father has taught me through
16 the years. And I hold a very high respect to the Osage
17 Minerals Council and that 1906 Act.

18 And I have learned a lot today. I've been told to
19 be a good listener. And I've listened today. I learned
20 so much from some of our elders that are here in this
21 room. Your words are powerful. Your words are healing.
22 And I appreciate that.

23 I am no longer a young man. I'm stepping close to
24 that old fellow myself. And I know there are other
25 shareholders who have inability to be here today but their

1 heart and spirit are here. We have to tell them what took
2 place here today and be accurate, be very, very accurate.

3 I've always been told to keep the Minerals Estate
4 separate from government. That's our foundation. It's
5 all we had for years.

6 And now, as Chairman Waller says, this TERA, the
7 government is going to have to get involved, the Congress,
8 as he put it, to write many, many pieces of legislation.
9 And that's a concern. It is. It's of high importance.

10 We are crossing some lines I've never crossed, not
11 at the levels of this Mineral Estate. We talked a lot
12 about funding, funding.

13 It appears to me on the surface that whatever we
14 pull that had federal money attached to it, we're going to
15 have to come up with the dollars to pay for that, sort of
16 cafeteria of sorts. It's my understanding from what these
17 gentlemen say, if you take this, if you take this, if you
18 take that, it's got federal money attached to it, that now
19 becomes your responsibility.

20 So quickly with an update, the Osage Nation, we only
21 have so much. We're a small gaming revenue tribe. And
22 having said that, you have to think what we have out there
23 now. Our debt service currently is extremely high.

24 We have an Osage Nation ranch, 70 plus million
25 dollars that we're paying on. We're on schedule to pay

1 that off. But we're still paying on it.

2 We just broke ground on a \$26 million tower for
3 casino hotels. But now it's adding to our debt. We are
4 under attack by the State of Oklahoma; as all Indian
5 gaming is, from the governor to increase the amount of
6 money we pay the state which has the potential to double,
7 triple, quadruple what we pay them.

8 Now we look at that and we look at our debt service
9 and we look at how do we continue the pace of government
10 growth with less money. That's the potential the Chief --
11 the Chief fights this every day.

12 So we're in a spot that we have to be careful with
13 every move that we make, every move that we make. And I
14 appreciate the opportunity to be here. Thank you all for
15 holding this.

16 I would like to remind everyone that tomorrow is the
17 meeting on the 12th at 10 a.m. up on the hill. Thank you
18 all so much.

19 JOHN TAHSUDA: All right. If there's -- I
20 don't see any hands. If there's no further questions, we
21 can close this out. Thank you guys very much.

22 Great questions. I appreciate all the questioning
23 you have and it certainly gives us some additional
24 thoughts to think about. And for us, you guys are
25 special.

1 You present challenges, you know, which is great.
2 But you present some challenges that are different from
3 other tribes around the country, their mineral health. So
4 thank you very much. We look forward to hearing your
5 additional comments. We're closed.

6 (Whereupon, the proceedings were concluded.)
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CERTIFICATE

STATE OF OKLAHOMA)
COUNTY OF TULSA) ss.

I, Linda Fisher, a Certified Shorthand Reporter, Registered Professional Reporter, and Notary Public in the State of Oklahoma, do hereby certify that on the 11th day of July, 2019, at the Hard Rock Casino Hotel, 777 West Cherokee Street, Catoosa, Oklahoma, the within and foregoing TRIBAL CONSULTATION was reduced to writing by me in stenograph, and thereafter transcribed by me, and is fully and accurately set forth in the preceding pages.

I do further certify that I am not related to nor attorney for any of the said parties, nor otherwise interested in the event of said action.

WITNESS my hand and official seal this 17th day of July, 2019.


Linda Fisher, CSR-RPR #866

BUREAU OF INDIAN AFFAIRS TRIBAL CONSULTATION July 11, 2019
 TRIBAL ENERGY RESOURCE AGREEMENT

A	51: 6, 9, 17	addressed	77: 19	amend 11: 22
a. m 1: 20	52: 21 53: 1	19: 21	agreement	11: 25 67: 4
95: 17	53: 1, 21	39: 23 41: 1	1: 17 7: 8	68: 19
ABB 30: 20	54: 20 59: 7	48: 7 62: 11	10: 3 41: 11	amended
ability	68: 21 69: 4	62: 12	41: 18	51: 25
30: 11, 21	69: 10	64: 21	42: 22, 23	amendments
40: 8 82: 7	75: 19 80: 8	88: 11	43: 2 51: 1	67: 10, 10
83: 4	93: 17	administer	52: 9, 14	American
able 5: 6	acting 42: 2	39: 11 49: 2	55: 19 59: 8	37: 10 41: 7
8: 4, 15 9: 2	42: 9	administ...	74: 23, 24	amount
9: 6, 24	action 2: 19	38: 10	75: 23	22: 22 95: 5
32: 6 61: 4	12: 4 35: 23	administ...	76: 16	amounts
61: 7 63: 11	36: 25	11: 11 49: 2	agreements	13: 4
65: 15 66: 2	37: 16, 20	69: 19	7: 3 11: 12	ample 79: 21
absolutely	64: 23, 25	92: 24	13: 18 14: 4	analysis
29: 10	65: 3 70: 2	administ...	15: 6 28: 13	38: 1 70: 8
57: 21	71: 14, 15	62: 12	28: 22 33: 8	70: 13
accept 85: 5	71: 18 73: 3	administ...	36: 2 37: 6	77: 15
acceptable	73: 9, 14	67: 9	37: 21 41: 4	and-a-half
40: 24	76: 20	adopt 50: 3	42: 24	53: 17
access	97: 14	ads 74: 1	43: 19 44: 1	Andrew
28: 10, 16	actions 9: 7	advice	44: 10	23: 24
28: 16, 18	12: 24	28: 25	52: 25	40: 25, 25
35: 14	35: 25	affairs	66: 13, 21	42: 12
39: 15	75: 20	1: 12 2: 4, 5	75: 11	angel's
47: 16	activities	2: 9, 14, 18	ahead 21: 16	3: 25
48: 10, 11	27: 23, 24	2: 23 62: 14	62: 6 63: 1	ANNETTE
48: 18	28: 2 35: 25	91: 20 92: 9	67: 20 76: 9	2: 22
72: 23	36: 6, 8, 11	93: 4	ain't 59: 14	annette....
accurate	69: 12	Affiliated	Albuquerque	2: 25
94: 2, 2	activity	6: 1 23: 15	2: 24	annual 91: 7
accurately	87: 18	affiliation	Allotment	annuitants
97: 11	Acts 45: 11	6: 16	25: 23	35: 19
achieve	actual	afford 58: 2	allow 10: 8	answer
74: 6	12: 18	58: 2	21: 21	20: 22
acknowledge	81: 10 82: 7	afraid 22: 9	68: 21	29: 16
82: 1	add 11: 22, 25	22: 10	allowed	41: 14 50: 9
acre 77: 16	18: 13 45: 6	35: 15	20: 15	53: 19
act 7: 6	46: 7 58: 3	agencies	24: 18	63: 17 66: 2
22: 23	added 65: 17	13: 7	allowing	69: 20 70: 1
23: 10	65: 18	agency 60: 3	3: 12 7: 10	83: 22
25: 23	adding 95: 3	78: 20	51: 4 71: 7	88: 19
26: 13	additional	80: 16, 25	allows	answered
29: 10	16: 4 80: 4	81: 21 82: 1	38: 21 43: 8	50: 9 62: 11
30: 23	95: 23 96: 5	83: 11	91: 24	78: 17
33: 18	address	86: 16	alternative	answers
37: 13, 14	13: 1 15: 17	87: 25	13: 12	3: 18 4: 20
38: 9, 12	39: 22	aggravating	36: 15	60: 23
45: 10, 23	49: 13 62: 7	53: 20	43: 15	68: 12
46: 15	67: 12 70: 6	ago 5: 23	alternat...	anticipate
50: 11, 15	85: 25	76: 19	38: 1	63: 10
	87: 16	agree 17: 21	Amen 5: 1	anybody 6: 3

BUREAU OF INDIAN AFFAIRS TRIBAL CONSULTATION July 11, 2019
 TRIBAL ENERGY RESOURCE AGREEMENT

44: 14 63: 1	95: 14, 22	83: 15, 20	assumpti on	39: 16 55: 7
anymore	appropri . . .	areas 7: 19	70: 23	59: 4 63: 24
85: 17	76: 12	25: 25	attached	68: 19
86: 16, 18	appropri . . .	83: 18	94: 14, 18	69: 14 78: 2
87: 19, 22	39: 9, 10	argument	attack 95: 4	78: 16
anything' s	appropri . . .	65: 6, 7	attempts	84: 17 85: 7
84: 25	18: 3 39: 7	arrangement	63: 17	85: 13, 14
anyway 33: 5	approval	40: 20, 20	attendance	85: 23 86: 5
APAC 32: 9	10: 9, 11	69: 11	93: 11	86: 5, 11
APD 41: 25	11: 20	asi de 79: 5	ATTENDEES	87: 3 88: 17
42: 1 73: 19	27: 21 33: 5	asked 3: 7	2: 1	88: 18 89: 4
74: 13, 14	33: 9, 10, 15	39: 13 57: 8	attorney	89: 10, 14
APDs 41: 16	38: 13	74: 2	97: 13	89: 16, 20
appeari ng	41: 25 42: 1	aski ng 61: 9	attorneys	89: 22 90: 8
60: 19	42: 25 44: 3	63: 19, 23	29: 22	90: 8, 13, 16
appears	44: 8 63: 6	78: 16	audi t 11: 8	backlog
94: 13	64: 21 66: 8	79: 23	aunts 26: 9	78: 21
APPEL 2: 17	68: 24 69: 3	assess	authori ties	bad 30: 8
5: 9 17: 21	69: 12	73: 21	70: 11	31: 3
18: 9 26: 14	71: 25 72: 2	assessment	80: 18	bal ance
appl e 15: 22	72: 5 74: 9	65: 16	authori ty	31: 21
appl i cable	74: 14, 19	asset 49: 5	7: 20, 21	49: 24
11: 18	74: 21 75: 8	54: 17 89: 1	9: 24 12: 7	57: 19
45: 12	75: 11, 13	89: 2	29: 2, 6	bal anci ng
appl icants	75: 19, 22	assets 12: 5	33: 5 38: 12	40: 7, 7
83: 17	75: 23, 24	39: 25 49: 3	39: 2 43: 3	bare 39: 11
appl icati on	approve	51: 12, 21	44: 16, 17	barely
9: 9 10: 4	10: 5 14: 23	52: 1, 3, 16	44: 17	79: 15
41: 16	43: 21	assist	50: 15, 21	barrel
44: 23 67: 1	52: 24	28: 19 39: 3	53: 7 65: 5	59: 15
74: 19	57: 15, 17	51: 23	65: 7 80: 11	barrel s
89: 15 92: 6	68: 22	assistance	80: 18, 22	23: 11, 15
Appl icat. . .	73: 25	9: 18, 21	authori z. . .	55: 3, 5, 7, 8
41: 19	80: 12	28: 25	9: 17	Bartlesv. . .
appl ied	approved	50: 18	authori zed	83: 15
67: 19	10: 24	Assi stant	49: 6	based 80: 2
appl ies	11: 18, 21	1: 12 2: 3	automati . . .	basic 6: 5
29: 11	44: 11	2: 13, 14	10: 5	7: 21 11: 15
75: 22	64: 12	16: 18	avai lable	basical ly
appl y 11: 24	65: 20 69: 1	91: 19 92: 9	9: 21 39: 7	7: 8 8: 12
11: 24 34: 5	69: 7 90: 24	93: 3	61: 2 87: 1	9: 15 12: 2
36: 21 37: 9	approves	assume 28: 3	87: 10 88: 1	13: 21 39: 6
37: 11, 14	37: 5 72: 14	47: 21	avoi d 65: 24	43: 9 50: 13
37: 15	approvi ng	50: 12 62: 3	aware 73: 5	80: 24 89: 1
44: 21 67: 5	13: 22	assumed		bat 19: 3
67: 15, 20	30: 14	27: 24	B	batteri es
appoi nted	64: 23	assumes	back 20: 3, 4	57: 5, 6
51: 16	73: 17	50: 12	21: 5 25: 11	Bear 19: 5
appreci ate	ARCHI E 3: 6	assumi ng	29: 25	19: 21
6: 23 26: 9	area 5: 4	38: 23	31: 11	beauti ful
63: 16	15: 5 58: 9	50: 10 66: 5	32: 15, 19	79: 9
93: 22	58: 13, 14	81: 4 91: 3	34: 17	beetle

37: 10 41: 8	58: 14, 14	44: 12	68: 24	25: 19 30: 9
behal f 14: 4	Bless 3: 23	broke 55: 20	buy 25: 10	36: 9 37: 17
19: 2 25: 21	Blessings	95: 2	54: 4 71: 22	55: 15 66: 9
40: 4, 22	3: 13	brought	buyer 71: 19	cash 9: 19
believe	Blind 54: 14	51: 18		casino 1: 21
15: 11 27: 9	BLM 27: 4	78: 17 83: 7	C	84: 22 95: 3
52: 3, 11	62: 16, 19	buck 58: 16	C 2: 5, 9, 15	97: 7
54: 19	blowing	61: 18	2: 19	cat 26: 7
60: 20	87: 25	budget	cafeteria	catchall
69: 22	board 51: 15	50: 13 77: 4	94: 16	10: 20
70: 21 74: 7	51: 16	78: 25	calculated	categories
benefici...	58: 20	79: 10, 11	87: 11	10: 18
26: 21	body 93: 11	79: 18	calculation	Catoosa
beneficiary	boogeyman	80: 22, 22	87: 14	1: 23 97: 8
26: 19	30: 9	81: 14, 15	calculat...	caused
29: 17	books 31: 19	82: 5, 7, 15	14: 19	67: 14 69: 6
best 52: 4	boom 83: 10	83: 2 84: 6	call 7: 2	caveat
54: 23 60: 5	Boone 51: 2	84: 15	28: 24	79: 20
80: 7	51: 2 52: 18	budgets	62: 24	cents 76: 11
better 19: 1	88: 14, 14	80: 25	called 5: 12	ceremonial
22: 6, 9	89: 6, 23	buffalo	38: 9 68: 21	4: 23
23: 11	90: 2, 5, 7	20: 20	camels 25: 4	certain
48: 25 76: 6	90: 11, 15	build 18: 22	Candy 32: 9	9: 15 12: 15
77: 12 83: 5	borne 80: 14	built 22: 13	capabili...	27: 18
beyond	boss 58: 11	79: 9	9: 10 11: 2	41: 14
18: 16, 19	bosses	burdensome	11: 4	certainly
80: 4, 11	81: 11	40: 6 65: 24	capacities	95: 23
BIA 7: 9, 21	bothered	Bureau 26: 2	20: 15	CERTIFICATE
21: 1 35: 12	59: 8	92: 14	capacity	97: 1
39: 19 50: 5	bothering	burying	8: 18, 21, 24	Certified
50: 25	55: 13	37: 10 41: 7	9: 1, 8, 10	97: 4
54: 13	bouncing	business	9: 16 10: 15	certify
56: 21 77: 1	25: 13	4: 11 8: 6	11: 16 14: 6	65: 14 97: 6
81: 13, 19	bound 49: 24	13: 18	21: 12	97: 12
87: 19, 21	branch	28: 12, 22	capitalize	certifying
92: 16	86: 22	30: 11, 13	59: 24	8: 14
big 25: 3	branches	30: 17, 22	care 10: 23	cetera 6: 19
37: 2 81: 14	19: 14	30: 25	24: 9 33: 13	8: 5 9: 1
81: 16	breaches	31: 13, 23	career 24: 5	13: 19, 23
bill 87: 6	29: 3	32: 2, 17, 20	careful	13: 25 14: 4
billion	break 77: 23	33: 8 34: 13	95: 12	14: 12
23: 16	77: 25 78: 2	36: 2 37: 5	carefully	80: 12, 13
54: 17, 17	breath 3: 11	37: 21	39: 9 40: 3	81: 5 82: 9
bit 22: 15	briefly	40: 19	carried	82: 11
31: 1 52: 12	79: 1	42: 24	11: 6	CFR 7: 23
59: 24 62: 7	bring 7: 13	43: 19 44: 1	carrot 77: 2	Chair 41: 1
63: 24	84: 19	44: 10	carry 5: 15	chairman
73: 11 76: 6	brings 14: 9	52: 25	13: 5 26: 14	19: 17, 25
80: 7 84: 1	broad 10: 18	66: 13	50: 11	24: 9 29: 10
bites 15: 21	40: 18	75: 11, 23	case 7: 11	93: 9 94: 6
blame 58: 8	broader	businesses	12: 12 17: 6	challenge
58: 8, 13, 13	27: 9 44: 12	34: 8 41: 15	17: 16	9: 6 39: 23

BUREAU OF INDIAN AFFAIRS TRIBAL CONSULTATION July 11, 2019
 TRIBAL ENERGY RESOURCE AGREEMENT

82: 13	Chief 19: 3	92: 18	34: 22 38: 4	computers
84: 11, 15	19: 5, 6, 21	collection	61: 5 63: 18	86: 18
challenges	19: 21 20: 4	46: 2 56: 18	64: 6, 7	conceived
96: 1, 2	22: 19	combination	76: 14 96: 5	27: 10
chance 56: 2	24: 18	82: 15	Commission	conceiving
change 9: 23	26: 10	combined	49: 21	92: 2
22: 10, 21	54: 25	84: 22	commissi...	concepts
24: 15	60: 22	come 3: 9, 12	79: 2	11: 15
25: 23 37: 8	61: 18	4: 19 6: 22	committee	conceptu...
39: 24	76: 20	19: 25	87: 4	39: 22
40: 15	77: 17	20: 25 21: 7	compact	83: 24
41: 12	78: 17 93: 8	22: 14 25: 9	11: 6 20: 17	85: 11
46: 18 50: 6	95: 10, 11	34: 16, 18	22: 22	concern
56: 4 73: 17	Chief's	35: 15	24: 13 42: 5	31: 15 41: 4
91: 21 92: 3	86: 23	40: 11 43: 8	76: 14	51: 5 87: 5
92: 4	chiefs	55: 6 63: 4	77: 12	94: 9
changed	29: 23	63: 23	compacted	concerned
8: 20 27: 19	child 24: 6	71: 22, 22	76: 17	51: 11, 18
27: 20	children	78: 2 92: 6	85: 12	concerns
51: 25	4: 4	93: 14	compacts	41: 1 68: 10
75: 15	Citizen	94: 15	20: 16	concluded
changes 5: 4	90: 19	comes 4: 12	companies	96: 6
5: 13, 14, 15	City 79: 2, 9	21: 16	8: 5 22: 12	concur
5: 16, 19, 24	Civil 25: 9	44: 15, 16	company	60: 22
6: 6 7: 25	clarific...	44: 17	43: 23, 24	81: 25
8: 17 17: 10	9: 5 42: 15	59: 20 93: 2	44: 9 45: 22	conducted
22: 17	clarific...	comfortable	45: 24	83: 12
29: 12	10: 13	40: 22	compare	confirma...
41: 12, 13	clarify	coming 20: 6	79: 12	46: 3
56: 6 63: 9	91: 5	33: 17	complaints	conflict
70: 3, 4, 6	clarifying	58: 23	74: 3	51: 6 65: 9
70: 14	71: 10	86: 11, 11	complete...	conform
91: 15	clear 68: 12	command	63: 15	5: 18 8: 1
changing	71: 11	56: 11	completed	70: 6
67: 6 86: 10	87: 15	comment	63: 12	conforming
charge	clearly	15: 15, 24	completely	5: 18 7: 12
57: 12	6: 16	16: 1, 2, 4	42: 18	18: 15
Charles	click 15: 4	16: 23 17: 2	complex	confused
54: 22, 25	15: 7	17: 16, 18	4: 12	42: 16
chase 20: 21	close 15: 14	19: 3 21: 22	compliance	confusing
check 21: 2	24: 19	23: 9, 23	12: 22	4: 12
21: 3 34: 19	25: 21	24: 11, 18	31: 20	confusion
57: 18	26: 10	38: 18 61: 9	comply	46: 7
checked 5: 7	93: 23	63: 20 64: 2	49: 19	Congress
21: 16	95: 21	71: 7	component	7: 6, 24
checks	closed 96: 5	comments	7: 7, 7	17: 10, 25
30: 19	clue 33: 20	6: 21 15: 8	components	18: 1 19: 9
31: 21	coal 59: 18	15: 16, 23	9: 4	19: 22
58: 12	59: 20	16: 5 17: 1	compose	20: 12
Cherokee	Collabor...	17: 18	15: 18	22: 18
1: 22 3: 14	2: 18	19: 15	compressed	33: 12 37: 1
21: 13 97: 8	collect	25: 21	18: 4	37: 2, 19

BUREAU OF INDIAN AFFAIRS TRIBAL CONSULTATION July 11, 2019
TRIBAL ENERGY RESOURCE AGREEMENT

38: 5, 15	92: 11, 13	65: 10	Council, --	16: 18
39: 8, 9	97: 9	convert	90: 3	CSR-RPR
41: 3 43: 12	consul ta...	27: 15	councils	1: 25 97: 21
51: 22	15: 17	cooperati on	57: 20	cubi c 23: 16
52: 14, 20	consul ta...	52: 15	council w...	cul tural
52: 21, 22	5: 20 15: 12	54: 13	29: 20	28: 21
52: 23 53: 2	15: 19 17: 4	coordin ate	77: 19	current
53: 4, 11	contact	28: 14	counsel	5: 13 7: 23
65: 17 67: 3	92: 10	copy 5: 7, 7	33: 22	78: 20 92: 5
67: 11 68: 1	contacted	5: 8, 10, 11	57: 14	currentl y
68: 20	21: 24	5: 12	country	37: 8 76: 17
69: 18 70: 9	contempl ...	corporati on	22: 4 38: 11	77: 1 93: 2
70: 15, 17	65: 1	43: 17, 21	62: 19	94: 23
75: 9, 17	conti nue	49: 21	81: 23	custodi an
81: 15 87: 5	70: 20 76: 8	corporat...	82: 12 96: 3	47: 18
93: 7, 13	95: 9	22: 13	county	cut 78: 10
94: 7	conti nued	correct	49: 21	Cynthi a
Congress...	23: 19	29: 10 71: 4	84: 21 97: 3	51: 2, 2
51: 6, 8	contract	91: 8	couple 5: 22	88: 14, 14
70: 2 76: 20	11: 6 13: 24	corrected	5: 24 47: 3	89: 6, 23
93: 11	24: 13 42: 5	18: 12	86: 24	90: 2, 5, 7
Congressmen	44: 13, 20	cost 77: 17	88: 22	90: 11, 15
76: 10	45: 3 47: 7	costs 77: 15	course	
Congress...	47: 9, 23	81: 7	18: 20, 22	D
80: 1	48: 3 53: 8	council	28: 12 64: 5	Dakota 5: 25
consequ...	67: 19	19: 7, 8, 12	85: 16	dangl ed
28: 22	74: 18, 20	19: 13, 17	court 6: 8, 9	77: 2
consi der	74: 24	19: 19, 22	6: 14 22: 3	Davi d 86: 21
6: 13	76: 15, 16	20: 10	78: 23	86: 22 88: 9
consi der...	76: 18, 21	21: 20 22: 4	cover 57: 3	day 4: 20, 21
62: 25	77: 6, 7, 13	22: 18 23: 2	covered	4: 25 21: 2
consi dered	81: 6, 7	25: 1, 13, 21	59: 6	21: 2 23: 11
74: 23 87: 6	82: 25	26: 5, 10	covers 36: 1	23: 15, 16
consi deri ng	85: 17	29: 9, 20	create 17: 1	55: 3, 5
61: 3	contract...	34: 12 35: 5	43: 16, 17	81: 24
consi stent	46: 10	36: 10, 10	creates	95: 11 97: 7
11: 4 18: 23	contract...	41: 1, 3	40: 3	97: 15
69: 2	47: 4 61: 16	42: 14	creati on	days 10: 5, 9
consti tu...	contracted	47: 12, 13	7: 5	20: 25 21: 1
19: 10	82: 24	50: 2 51: 15	crossed	31: 22 55: 4
69: 24	85: 12	51: 23 52: 2	94: 10	65: 14, 16
93: 12	contracti ng	52: 13	crossi ng	89: 21
Consti tu...	44: 21	53: 23 54: 8	94: 10	DC 2: 6, 10, 15
30: 25	47: 25	57: 18	crossover	2: 20
consul ta...	48: 12 80: 9	60: 17, 24	62: 9	dead 20: 21
1: 18 5: 3	contractor	62: 5 64: 10	cruci al	49: 13
5: 21, 23	42: 2, 10	66: 17	47: 16	deadl i ne
6: 9, 12	76: 2	71: 13, 25	crunch 82: 7	10: 3
15: 9, 10, 10	contracts	72: 3 78: 15	82: 16	deal 45: 5
15: 23 16: 4	47: 25 81: 3	93: 10, 17	Crusher	62: 20
16: 13	83: 24	Council's	32: 9	81: 24
17: 13	control	71: 17	Cruz 2: 12	deal s 87: 1

debt 94: 23 95: 3, 8	73: 13 79: 4 86: 1 92: 11 92: 21	11: 23 12: 1 12: 19 13: 13, 15 14: 8, 10 15: 5 16: 19 32: 12 36: 13 40: 9 47: 14 49: 11 62: 21 68: 23, 24 69: 12 91: 19 92: 8	57: 17 di sburse... 46: 3 di scout 23: 1 di screti on 17: 15 di scuss 6: 3 di scussi on 6: 7 17: 4 17: 13, 23 18: 7 37: 10 39: 1 62: 14 62: 23 66: 6 86: 7 di scussi ons 32: 23 62: 8 62: 17 66: 23 di versi fy 31: 11 di vine 3: 22 Di visi on 2: 5, 9 document 20: 3 documents 14: 12, 14 24: 16 35: 15 39: 16, 24 39: 25 40: 10, 12 40: 18 49: 5 64: 11 doi ng 6: 13 12: 1 14: 3 17: 7 30: 14 36: 19, 23 38: 12 39: 20 46: 19 58: 2 58: 23, 23 66: 24 69: 5 69: 11, 11 73: 25 77: 18 85: 17, 25 87: 20 88: 1 91: 23 dol lar 25: 15	54: 17 81: 10 dol lars 24: 4 54: 17 76: 11 94: 15, 25 domesti c 69: 19 doubl e 95: 6 doubt 59: 13 downfal l 22: 11 downtown 79: 9 draft 17: 4 17: 13, 23 18: 7, 14 dramati c 12: 4 drasti cally 30: 19 drill 35: 16 41: 17, 20 72: 20, 24 73: 21 74: 6 74: 9, 12, 19 79: 5 drilled 41: 11 drilling 39: 17 41: 9 driven 89: 9 89: 11 dropped 21: 5 dry 55: 20 due 15: 8 61: 5 85: 7 dupli cate 79: 18 Durango 5: 25 duti es 61: 2 dyi ng 25: 19 dynami c 40: 15
Decembe r 18: 1, 2 32: 5 61: 6 deci de 66: 2 77: 6 85: 6 86: 3 deci des 27: 17 35: 4 36: 4, 5 47: 8 deci si on 41: 22 60: 20, 21 60: 23 63: 2 deci si ons 4: 3 61: 15 deemed 9: 16 65: 19 defi ne 36: 8 38: 5, 5, 6 38: 15 degree 41: 15 79: 22 del egated 92: 7 93: 2 93: 2 del egates 91: 25 del egati on 91: 24 del egati ons 92: 4 del eted 9: 9 del ibera... 24: 13 demonstrate 12: 17 departme nt 1: 11 2: 3 9: 13, 18 10: 4, 21 12: 10, 20 12: 24 21: 10 27: 21, 23 28: 14, 19 33: 4 36: 6 53: 12 61: 17 63: 5	departme... 86: 12 90: 13 depend 27: 17 dependi ng 77: 5 depends 35: 24 Deputy 2: 3 2: 13 16: 18 descri bed 80: 7 81: 12 desi gnee 64: 15 desk 5: 7 detail 44: 6 73: 15 detai led 42: 15 determi n... 9: 14 12: 20 determi ne 4: 3 60: 3 determi nes 74: 16, 18 determi ni ng 26: 25 detri ment 77: 21 detri mental 30: 21 54: 7 deval ued 35: 16 devel op 30: 25 33: 14, 14 47: 15 87: 14 devel oped 21: 6 87: 4 87: 12 devel opi ng 33: 3, 3 34: 25 devel opment 2: 13 7: 10 7: 13 8: 10 8: 14 9: 11	di cti onary 57: 10 di fference 42: 15 di fferences 38: 2 di fferent 27: 5 68: 7 88: 23 96: 2 di mi ni sh 54: 9 di mi ni sh... 51: 16 di rect 20: 14 22: 1 54: 10 84: 13 di recti on 87: 7, 15 88: 5 di rectly 83: 23 di rector 2: 18 56: 14 58: 10, 13 58: 14 81: 21 91: 17, 18 91: 18 92: 7 di sagree 76: 15 di sappoi... 52: 12 di sapproval 10: 10, 14 10: 23 di sapprove 10: 5, 21 14: 23	dol lar 25: 15	E E-r-w-i-n 35: 11 Eagle 50: 1 50: 2

BUREAU OF INDIAN AFFAIRS TRIBAL CONSULTATION July 11, 2019
TRIBAL ENERGY RESOURCE AGREEMENT

earlier 36: 5 37: 9 41: 21 51: 19 67: 2 67: 10 68: 20	elders 19: 22 93: 20	enjoy 3: 7	18: 3	excess 39: 10 54: 17
ears 4: 16 39: 14	elect 46: 1	ensure 29: 2	essentially 42: 2 43: 18 50: 16	excuse 89: 6
earth 23: 6	elected 52: 3	enter 9: 2 9: 12 14: 21 26: 20 41: 3 41: 17	estate 8: 25 13: 25	executive 41: 3 86: 22
easy 23: 24 83: 21	electricity 59: 22	entered 52: 13 53: 21	19: 12 26: 19 47: 14	exempt 75: 21
economic 2: 13 16: 19 28: 20 32: 12 40: 9 70: 8, 13, 21 71: 2 77: 15 91: 19 92: 8	elements 24: 21 25: 22	enters 66: 20, 23 79: 19	48: 16, 17 48: 19, 22 48: 22 49: 12 54: 11 70: 18 77: 16 94: 3 94: 11	exemption 44: 7
economics 68: 6 69: 21	ELIZABETH 2: 17	entering 65: 23 71: 14	esteemed 53: 23	exercise 29: 7 70: 11
economist 69: 16	elizabet... 2: 21	entertain 18: 25	et 6: 19 8: 5 8: 25 13: 19 13: 23, 25 14: 4, 12 80: 12, 13 81: 5 82: 9 82: 11	exhausted 12: 16
economy 41: 12	email 15: 17	enticing 65: 22	eternity 25: 8	existing 27: 18
Eddie 9: 22 83: 22, 23 84: 12, 12 84: 13, 16 84: 19	enacted 27: 11 37: 3 70: 3, 3, 4 87: 6	entities 11: 17 43: 23	evaluate 91: 1	expanded 27: 4
edges 38: 20 40: 16	enactment 64: 19	entitled 29: 15	evaluating 28: 12, 20	expect 79: 17
EDs 80: 13	encourage 67: 5	entity 43: 20, 24 44: 2, 4	evaluation 11: 12 43: 4	expend 50: 13 85: 5
educational 79: 1	endeavor 22: 23	environment 25: 11, 12	event 97: 14	experience 9: 11 11: 11 13: 21 14: 2 68: 18 82: 22
effect 10: 6	ends 16: 23 17: 17	environm... 28: 21 37: 9 37: 13, 24 38: 4, 15 65: 15 66: 15 71: 13 73: 4 73: 22, 22 73: 24	Everett 19: 6, 17, 20	experien... 83: 9
effective 64: 4 72: 13 89: 20	energy 1: 17 7: 3, 6, 13 8: 14, 19, 25 9: 11 10: 2 11: 2, 12, 13 11: 22 12: 1 12: 19 13: 13 14: 8 14: 10 15: 6 32: 12 50: 15 74: 23 80: 8 91: 18 92: 8	evergreen 12: 2	everybody 17: 19	expert 59: 25
effort 20: 14 21: 25 22: 8	enforce 29: 4	environment 25: 11, 12	event 97: 14	expertise 8: 7 9: 10
efforts 20: 5	enforcement 29: 1, 5 92: 15	entity 43: 20, 24 44: 2, 4	Everett 19: 6, 17, 20	explanation 5: 5 6: 5 15: 1 40: 13
eight 54: 1	engage 14: 21	equation 51: 11	evergreen 12: 2	explanat... 4: 18
either 9: 6 15: 24 33: 23 43: 16 45: 1 45: 15 58: 22 61: 21, 22 66: 5 75: 20	engagement 14: 21	Erwin 35: 8 35: 11 38: 23 39: 13	everybody 17: 19	explicitly 53: 10
	engaging 5: 19	ESA 37: 11	evidence 12: 18	explore 54: 21
		especially	exactly 35: 10 36: 8 57: 12 61: 1 90: 8	express 4: 23
			example 32: 7, 10 34: 2	extend 17: 18
			exceptions 11: 9	extent 27: 18 39: 24
				extra 24: 4 50: 16, 19
				extremely

94: 23	64: 23 65: 2	55: 18	70: 24	functional
F	73: 3, 9, 14	fine 28: 6	Forman	62: 12
facilities	74: 8, 9, 21	35: 7 38: 21	42: 13, 13	function...
84: 2, 2	75: 2, 8, 9	finish 82: 4	45: 6, 13, 25	81: 8
facility	75: 11, 13	82: 21	former	functioning
84: 5, 8, 9	75: 19, 20	finished	25: 10	64: 4
fact 24: 16	76: 3 77: 10	47: 5	formula	functions
48: 12	77: 18 80: 9	first 5: 20	23: 24	7: 9, 18 8: 8
67: 16	82: 10	5: 23 17: 23	forth 97: 11	8: 19 13: 5
73: 12	85: 13, 15	29: 21, 25	forward	13: 10, 22
76: 19	94: 14, 18	31: 2 51: 5	24: 23 93: 4	14: 3 26: 20
78: 20 82: 1	feel 52: 1	52: 8, 8	96: 4	26: 20, 24
factor 68: 5	77: 1 79: 12	55: 13	fossil	27: 1, 5, 5
82: 6	93: 13	60: 18 93: 7	21: 17 25: 3	27: 10, 13
fairly	feet 22: 23	Fish 72: 23	59: 18	27: 20
18: 24	23: 16	74: 11	foundation	41: 23
familiar	fellow	Fisher 1: 25	94: 4	42: 25
70: 18	93: 24	97: 4, 21	fraction	43: 10 46: 6
family	fiddle 67: 3	five 22: 13	79: 7	46: 9, 12, 16
21: 13 31: 4	field 25: 19	26: 7 31: 8	frame 3: 5	46: 20, 24
family's	27: 6 39: 17	45: 11 57: 2	14: 16	47: 1, 8, 9
22: 6	fieldmen	78: 1	18: 12	48: 1, 1, 2
far 8: 6 20: 2	57: 2	five-minute	88: 18, 21	53: 3, 8
29: 8 61: 15	fighting	78: 2	89: 17, 18	61: 4, 8, 16
61: 20 67: 1	22: 4 60: 12	fix 23: 12	frames 65: 8	62: 20
father 3: 9	figh ts	68: 2, 2	65: 10, 19	63: 21
3: 12, 15, 16	95: 11	flexibility	67: 3, 6, 8	68: 13, 14
3: 17, 18, 21	figure	38: 21	framework	74: 14
3: 22 4: 2, 3	33: 22	floor 26: 12	30: 24	75: 17, 18
4: 5, 7, 8, 11	38: 18 47: 9	62: 24	freed 87: 21	76: 2 77: 6
4: 13, 15, 17	fill 82: 14	focus 87: 5	frequently	77: 7 80: 9
4: 19, 21, 24	final 15: 9	FOIA 48: 7	12: 11	80: 14, 15
93: 15	15: 9 16: 2	folks 23: 6	friends	80: 19, 25
federal	17: 1, 1, 2, 5	45: 3 55: 10	26: 4	81: 4 83: 13
10: 19 14: 3	17: 25 61: 6	56: 11	front 6: 2	85: 12
14: 25 20: 7	finalized	82: 14	70: 5	fund 59: 1
20: 9 21: 9	63: 13	92: 22	fuel 59: 18	funded 82: 2
33: 4 34: 24	finalizing	follow 25: 7	fuels 21: 17	fundin g
35: 2, 23	7: 22	25: 8 26: 13	25: 3	23: 24
36: 25 37: 9	finance	32: 16 75: 3	fulfill	38: 24
37: 16, 17	56: 18, 21	follow-up	72: 16	39: 10
37: 17, 19	financial	88: 15	fully 97: 11	41: 13 50: 4
37: 20 42: 3	9: 18, 21	follow-ups	function	50: 5, 6, 22
42: 9 46: 13	28: 21 39: 3	70: 9	39: 19	51: 1, 1
46: 21, 25	financing	force 72: 9	50: 10, 23	59: 2, 3
47: 3, 24, 24	56: 23	foregoing	50: 25 74: 8	78: 18
48: 3 49: 22	find 9: 24	97: 9	74: 21	79: 21 80: 4
49: 23	9: 24 34: 18	formal 5: 20	81: 16	80: 19
61: 16	52: 5 53: 20	5: 23 6: 9	83: 25 84: 3	81: 22
62: 21	82: 17	15: 20 16: 1	84: 6, 7	83: 19, 25
64: 19, 22	85: 24	64: 6, 24	87: 18, 20	84: 1 85: 17
	findin g	Formally	87: 22	86: 23 87: 1

BUREAU OF INDIAN AFFAIRS TRIBAL CONSULTATION July 11, 2019
 TRIBAL ENERGY RESOURCE AGREEMENT

87: 14, 16 87: 21 94: 12, 12 funds 13: 4 46: 3 50: 16 50: 16, 19 76: 12 77: 3 77: 5 further 27: 3 40: 8 95: 20 97: 12 future 11: 21 49: 16 80: 2	getting 22: 2 34: 13 74: 6 75: 2 82: 14 85: 1 give 4: 7, 15 6: 5 21: 23 21: 25 25: 6 42: 15 54: 9 63: 17 79: 12 88: 17 89: 11, 19 89: 20 given 3: 10 4: 18 88: 6 gives 44: 12 95: 23 giving 35: 2 88: 18 90: 12, 13 glad global 25: 15 go 6: 4, 24 13: 22 15: 3 15: 4, 25 16: 25, 25 18: 5 19: 4 19: 15 20: 2 21: 2 22: 1 22: 17, 22 24: 8 28: 6 29: 4 30: 6 32: 3 53: 25 54: 2, 16 58: 1 59: 16 59: 23 62: 5 63: 8 67: 20 68: 19 69: 14 72: 22 73: 1 76: 9 78: 8 78: 11 80: 11 82: 8 82: 17 84: 7 90: 8, 8 goal 62: 25 63: 8 God 3: 8, 9, 16 3: 21, 23 4: 8, 13, 19 4: 21 20: 21	23: 15 24: 5 goes 10: 6 32: 19 51: 1 58: 15 87: 23 88: 3 90: 16 going 9: 20 10: 19 20: 12, 18 20: 20 21: 21 22: 9 23: 5, 11, 12 23: 13, 20 24: 4, 14 25: 6, 10, 24 26: 23 30: 8 31: 1, 3, 4 31: 17 32: 7 32: 13 33: 23, 25 34: 2 35: 21 36: 12 37: 12 39: 19 47: 24 52: 4 54: 7, 15, 23 55: 7 56: 4 56: 6, 7, 9 57: 3, 4 58: 2, 4, 4, 5 58: 11, 24 58: 25 59: 1 59: 14, 18 59: 19 60: 5 60: 8, 8, 12 61: 11 65: 21 67: 8 69: 4, 24 70: 14 73: 20 74: 9 77: 11, 17 78: 10, 16 82: 12 94: 7 94: 14 good 3: 1, 4 3: 5 4: 17 29: 23 48: 24 55: 4 56: 7 57: 18 58: 21 60: 16 76: 7 76: 7 77: 20	82: 19 83: 7 93: 6, 19 gotten 69: 3 government 13: 21, 22 14: 3 19: 14 21: 9 24: 2 33: 4, 4 42: 3 56: 9 59: 5, 6 74: 9 76: 3 77: 10, 13 77: 18 82: 10 85: 14, 15 86: 5, 11, 13 94: 4, 7 95: 9 Governme... 42: 9 governme... 11: 3 governments 76: 18 governor 31: 7 95: 5 grab 25: 14 graciously 3: 4 grandchi... 4: 4 24: 24 49: 17 grandpar... 4: 1 grant 32: 12 gravel 32: 13, 17 graves 22: 7 gray 23: 3 29: 19, 20 30: 3 32: 25 34: 1, 7, 11 34: 16, 21 66: 16, 16 68: 3 69: 14 77: 20 great 19: 24 23: 14 24: 5 31: 17 59: 20 85: 21 95: 22 96: 1	greater 8: 4 8: 9 9: 4 greatgra... 49: 17 greatgra... 4: 2 ground 95: 2 groundbr... 64: 25 grounds 10: 14 groups 21: 4 Grover 55: 23, 23 59: 12 growth 95: 10 guarantee 26: 8 guaranteed 59: 2 guess 50: 8 81: 20 82: 13 85: 18 guidance 3: 22 88: 5 guide 4: 21 guinea 68: 4 guys 9: 22 16: 17 56: 20 58: 19 78: 4 95: 21, 24
<hr/> G <hr/> gain 39: 15 Gambino 31: 3 game 25: 5 gaming 31: 2 31: 2, 7, 9 94: 21 95: 5 gas 7: 11 23: 16 30: 18, 22 31: 9, 10, 18 32: 24 34: 9 34: 14 47: 15 55: 3 59: 23, 25 68: 9 69: 20 73: 18 74: 4 79: 5 general 8: 24 15: 25 33: 13 39: 8 39: 12 generally 38: 19 86: 2 generate 20: 10 47: 15 59: 22 generators 59: 22 gentle 62: 9 gentlemen 19: 20 63: 17 94: 17	<hr/> H <hr/> half 20: 2 hand 4: 11 21: 5 63: 8 63: 9 89: 16 89: 22 97: 15 handed 24: 24 handing 24: 23 89: 14 handle 14: 6 19: 1 handling 8: 25 13: 24 14: 2 30: 15			

hands 63: 23 77: 23 95: 20	74: 5 heard 56: 1 69: 21 74: 3 74: 7 76: 14	25: 10 honest 9: 20 honor 3: 6 19: 24	57: 21 implement 58: 21 70: 14	62: 14, 21 91: 18, 20 92: 8, 9, 12 92: 15 93: 4 95: 4
happen 22: 23 25: 24 39: 18 44: 20 75: 10	hearing 96: 4 heart 94: 1 HEARTH 38: 9 38: 12 68: 21 69: 4 69: 10	hope 63: 10 63: 13 77: 4 hopefully 10: 10 hopes 63: 2 hoping 31: 24 64: 7 66: 8	implemen... 90: 25 91: 2 implemented 59: 7 importance 94: 9 important 4: 13 9: 4 35: 9, 11 49: 12, 15 54: 18 65: 22	indicating 81: 14, 16 84: 18 indiscer... 85: 2, 3 industry 30: 22 34: 9 inform 53: 24 information 28: 10 48: 6 69: 23 informing 54: 2 infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19
happened 5: 15 7: 18 23: 14 45: 1	heat 4: 22 held 1: 20 41: 8 49: 20 49: 21	Hotel 1: 21 97: 7 hotels 95: 3 hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	54: 18 importantly 14: 13 31: 12 38: 5 87: 11 imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
happening 55: 17	help 3: 4 13: 5 54: 11 60: 3 66: 9 71: 11 73: 5	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
happens 21: 15 85: 21 88: 16	helped 76: 6 helpful 6: 19 hesitant 31: 6 hesitating 92: 3	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
happy 18: 25 26: 14 51: 23 78: 6 78: 7	helped 76: 6 helpful 6: 19 hesitant 31: 6 hesitating 92: 3	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
hard 1: 21 26: 13 29: 23 82: 14 86: 10 97: 7	hesitant 31: 6 hesitating 92: 3	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
hardships 22: 7	hesitant 31: 6 hesitating 92: 3	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
Harlan 60: 16, 17 63: 16	Heskett 53: 15, 16 Hey 52: 6 Hi 90: 18 high 93: 16 94: 9, 23	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
harm 89: 1 hazard 81: 20	highest 61: 17 highway 21: 4 hill 83: 12 95: 17 hire 83: 4 historic 37: 14 38: 25 history 55: 2 57: 22	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
HC's 79: 11 head 79: 16 headright 29: 9, 15 51: 3 53: 16 54: 5 88: 15	high 93: 16 94: 9, 23 highest 61: 17 highway 21: 4 hill 83: 12 95: 17 hire 83: 4 historic 37: 14 38: 25 history 55: 2 57: 22	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
headrights 54: 9	high 93: 16 94: 9, 23 highest 61: 17 highway 21: 4 hill 83: 12 95: 17 hire 83: 4 historic 37: 14 38: 25 history 55: 2 57: 22	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
heads 23: 10 healing 93: 21 health 96: 3 healthy 53: 22 hear 4: 17 18: 20 39: 14 70: 1	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 10	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 10	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 10	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 10	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 10	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 10	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 10	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 10	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 10	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 10	hour 20: 1 housing 83: 16 hundred 59: 10 hunt 20: 20 26: 8	imposed 41: 7 improved 78: 22 improvement 12: 9 18: 19	infracti... 57: 23 infrastr... 83: 16 inherent 68: 13 inherently 46: 13, 21 46: 24 47: 3 61: 16 63: 19 inherited 4: 8 initial 42: 7 44: 22 initially 45: 2 ink 55: 20 input 88: 13 inside 92: 21 inspection 92: 15 installa... 24: 2 instruments 64: 12 intelligent 55: 25 intent 14: 17 interest 12: 17, 18
	hit 25: 3 hold 26: 2 93: 16 holder 88: 15 holding 95: 15 home 25: 1			

14: 10	ITMA 20: 5	juri sdi c. . .	14: 21	83: 16 84: 5
51: 19		57: 14	18: 12, 13	84: 12 85: 9
61: 13	J	84: 22	18: 21	85: 11, 21
interested	J 8: 12 13: 13	K	20: 24	85: 23 86: 1
9: 5 12: 12	Jesus 5: 1	Kasi e 90: 18	21: 19	87: 2, 3
12: 19, 21	job 36: 19	90: 18, 22	22: 16, 23	88: 5, 20
12: 25 43: 6	58: 23	91: 5, 10, 13	24: 7 25: 15	89: 5 93: 24
97: 14	77: 18	keep 22: 7	25: 16, 25	96: 1
interesting	jobs 24: 21	56: 22	26: 6 27: 7	knowl edge
52: 5 84: 19	83: 6	67: 23 78: 1	27: 12 29: 5	8: 6 74: 10
interests	Joe 93: 6, 6	79: 16 94: 3	29: 14, 21	L
52: 4	John 2: 3	keepi ng	29: 23 30: 6	L 2: 8
Interior	3: 1 5: 2, 10	79: 15	30: 7, 8, 12	Lack 58: 7
1: 11 2: 4	7: 1 16: 7, 9	kept 21: 18	30: 18 31: 3	I aden 89: 3
14: 18	16: 12, 16	25: 20	31: 3, 4, 7	Ladi es
35: 20	17: 20 18: 6	53: 11	31: 15, 22	19: 20
47: 18 51: 7	18: 8, 11	Kevi n 55: 23	31: 24, 24	I ai d 37: 25
51: 10 56: 5	19: 5 23: 20	55: 23	32: 11 33: 2	55: 10
64: 13	26: 12, 16	59: 12	34: 11, 17	I and 11: 7
73: 13	26: 23	key 37: 15	34: 24, 25	11: 14 22: 6
91: 22	27: 16 28: 1	ki ckback	35: 4, 10, 11	33: 3, 14
interplay	29: 16 36: 5	57: 24	35: 19, 22	35: 1 38: 20
80: 8	39: 1, 21	ki cked	37: 11 40: 5	62: 15
interrupt	43: 7, 12	84: 23	40: 7, 12, 24	69: 12
12: 6	44: 5, 23	ki lled 22: 2	41: 9, 12	73: 17, 17
introduced	48: 24	41: 8	44: 24	79: 3, 5
16: 16	49: 15, 18	ki lling	45: 21	92: 14
investment	50: 8 61: 21	48: 22	46: 14, 22	I and-based
32: 3	62: 6, 7	ki nd 10: 20	48: 14 49: 9	68: 8
investors	63: 25	15: 21 23: 8	50: 12, 20	I ands 7: 10
41: 13	64: 20	31: 1 34: 14	50: 21, 23	62: 21, 22
involved	69: 25	50: 6 55: 1	50: 23	I anguage
45: 18 85: 4	70: 24 71: 4	59: 23 61: 8	51: 22 52: 7	17: 7, 8
92: 24 94: 7	71: 8 74: 17	63: 23 66: 1	54: 22	79: 20
involves	77: 22 78: 4	79: 1, 11	55: 16	I arge 68: 8
62: 15	80: 6 82: 3	85: 10	57: 22, 23	I arge ly
92: 12	82: 20	86: 18	60: 1, 20, 23	7: 16 12: 24
issuance	83: 21	90: 22	61: 10, 13	17: 6, 8
74: 13	84: 17 85: 9	ki nds 86: 14	61: 22 62: 2	18: 15
issue 21: 5	87: 3 88: 22	86: 15	62: 11, 15	35: 24 93: 1
27: 7 68: 22	95: 19	89: 12	63: 7, 20	93: 2
73: 13	john. tah. . .	knew 55: 24	64: 20 66: 1	I argest
74: 11 83: 2	2: 7	knocked	66: 18 67: 7	22: 13
86: 23 88: 6	join 43: 24	20: 1	67: 18	I atest 5: 16
issued	joint 43: 22	know 4: 20	68: 14	I aunch
73: 12	Julie 26: 18	6: 20 7: 4	69: 18	15: 25
issues	26: 18	9: 13, 19, 20	70: 10, 12	I aw 5: 14, 19
67: 12 69: 6	29: 18	9: 22 10: 17	73: 20	7: 13 9: 8
issuing	July 1: 20	11: 25	76: 11 78: 6	10: 13, 19
74: 8	15: 11 97: 7	12: 10 13: 6	78: 20, 25	11: 2, 17
ITA 20: 5	97: 16	13: 24, 24	79: 11, 15	12: 9, 12, 16
items 9: 9	jumped 52: 6		81: 9 83: 2	

14: 15, 17	57: 24	limitations	84: 10	20: 13 26: 2
18: 1 34: 24	66: 13	10: 12	logistics	26: 24 35: 8
35: 2 39: 4	68: 22, 23	limited	21: 23	41: 6, 8
39: 24	69: 4 75: 11	12: 23 44: 7	lollipops	53: 19
43: 13, 18	80: 12	44: 8, 14	24: 7	55: 18, 24
49: 19	leasing	45: 2 57: 14	long 6: 5	58: 8 62: 23
50: 24 66: 9	22: 24 38: 9	limiting	31: 22 32: 1	87: 7 88: 5
70: 4, 6, 10	38: 13	10: 13	32: 2 46: 13	92: 14
70: 14	41: 15 69: 2	limits	62: 16	93: 15, 18
87: 13	69: 2 71: 16	12: 12	78: 11	94: 11
laws 8: 20	72: 16 74: 4	Linda 1: 25	87: 17	love 18: 20
20: 13	leave 21: 11	53: 15, 15	longer 8: 17	26: 4, 9
31: 18 37: 9	24: 13	97: 4, 21	9: 13 49: 8	
49: 23	27: 13, 14	line 7: 14	75: 19, 20	M
54: 20	leaves	58: 15	93: 23	Mafia 31: 5
68: 11	82: 21	lines 94: 10	look 8: 20	Mail stop
laying 9: 19	leaving	link 15: 4, 6	11: 1, 3	2: 20
50: 19	23: 5	list 26: 21	13: 11 15: 3	main 8: 17
leader 6: 17	led 6: 11	28: 20	20: 10, 18	37: 1, 1
leadership	left 23: 6	46: 24, 25	20: 23	41: 4
3: 15 69: 22	48: 19	53: 3 61: 3	24: 25	maintain
learned	59: 24 77: 5	listen 4: 3	25: 25 28: 1	46: 2 47: 18
26: 2, 3, 7	78: 6	88: 13	28: 6 29: 23	47: 20 79: 8
93: 18, 19	legal 12: 15	listened	31: 10, 13	maintaining
lease 14: 4	28: 21	93: 19	32: 22 42: 5	54: 13
22: 24	33: 22	listener	44: 5 57: 9	maintenance
36: 22	57: 10	93: 19	59: 11 60: 9	28: 15
41: 11	62: 10	listening	69: 16	major 7: 6
45: 10, 22	legally	3: 17 5: 22	70: 18 88: 4	14: 7
45: 22, 24	49: 8	19: 23	88: 12 95: 8	majority
57: 17	legislation	little 5: 5	95: 8, 9	14: 10
71: 13, 14	51: 24, 24	22: 15, 21	96: 4	making 17: 9
71: 15, 22	94: 8	23: 3 31: 1	looked	53: 25
72: 8, 9, 13	lesson 55: 2	42: 16	33: 19	57: 24, 24
72: 16	let's 23: 21	43: 12	76: 10	65: 6 76: 16
73: 16 74: 4	39: 21 55: 9	52: 12 57: 1	looking	87: 1 91: 15
75: 23	58: 1 90: 23	59: 24 62: 7	23: 8 24: 23	Mal one
leases	level 21: 16	63: 24 76: 6	30: 23 36: 7	26: 18, 18
11: 12	40: 24 44: 6	77: 2 80: 7	41: 20	29: 18
13: 18, 22	46: 7 61: 17	84: 1	46: 22, 23	man 55: 23, 24
28: 12, 22	73: 15	live 20: 8	47: 2 56: 18	55: 25
30: 14 33: 8	80: 13	82: 5	61: 3 69: 20	93: 23
36: 2, 21, 23	levels	Liz 5: 9 6: 11	74: 15	management
37: 5, 20	23: 21	15: 18	88: 21 93: 4	11: 13
42: 24	94: 11	16: 11	looks 26: 3	92: 14
43: 18, 19	liability	17: 21, 21	88: 11	manages
44: 1, 8, 8, 9	40: 4, 22	18: 9 26: 14	lose 51: 11	19: 12 79: 5
44: 10	liable 49: 8	loan 32: 17	losing	managing
45: 15	life 3: 10	located	23: 11	13: 21
47: 16 51: 7	3: 11 56: 1	location	lost 35: 18	mandatory
52: 25	limitation	11: 14	lot 7: 18	65: 10
57: 15, 16	9: 5	82: 11	12: 11 15: 2	marched

BUREAU OF INDIAN AFFAIRS TRIBAL CONSULTATION July 11, 2019
TRIBAL ENERGY RESOURCE AGREEMENT

20: 25	57: 10	48: 19, 22	35: 6, 6, 18	55: 22
Margo 29: 19	59: 11	48: 22	56: 18, 20	70: 16
29: 19 30: 3	mechanical	49: 12	56: 23 57: 8	86: 21 93: 6
32: 25 34: 1	9: 14	54: 11	57: 25 58: 7	nation
34: 7, 11, 16	media 30: 7	62: 20	58: 18, 21	19: 11
34: 21	51: 14 74: 1	94: 11 96: 3	77: 11, 14	21: 21 23: 1
66: 16, 16	meet 65: 19	mi nerals	77: 14, 18	23: 4 24: 17
68: 3 69: 14	79: 2 81: 15	7: 7 19: 7, 8	80: 22 85: 1	25: 1, 24
Maria 70: 16	83: 11	19: 12, 13	85: 5, 5, 7	29: 8 31: 11
70: 16 71: 1	meeting	19: 17, 18	85: 20	34: 6 35: 4
71: 5, 9, 19	95: 17	21: 6 22: 15	86: 14, 19	36: 9, 10
71: 21, 24	member	23: 2 25: 1	87: 25 88: 2	47: 19
72: 4, 7, 11	42: 14	29: 9, 20	94: 14, 18	51: 12, 22
72: 15, 19	47: 13, 13	32: 10, 12	95: 6, 10	51: 25
72: 22 73: 1	51: 3 60: 17	32: 22 33: 3	moni tor	52: 11, 14
73: 6 74: 2	60: 24	33: 15 34: 5	57: 5	54: 16
74: 22 75: 1	members	34: 11 35: 1	month 15: 13	70: 17
75: 5, 25	19: 7, 8	35: 5, 6, 16	63: 13	74: 24
76: 5, 8, 10	38: 20 40: 1	36: 9, 10	months 32: 2	76: 17 90: 5
76: 23 77: 9	51: 16 93: 9	40: 25 41: 2	41: 10	90: 6, 7, 19
Mark 2: 12	membershi p	42: 14	morni ng 3: 1	90: 20 93: 7
16: 18	59: 7	46: 16	3: 7, 9, 11	94: 20, 24
61: 21	menti on	47: 13 50: 2	3: 13 4: 25	national
mark. cru. . .	36: 12 87: 2	51: 15, 15	5: 3 60: 16	7: 6 21: 16
2: 16	menti oned	51: 23 52: 2	61: 1 93: 6	37: 13, 14
market	36: 5, 25	52: 13	morni ngs	nations
25: 16	mess 88: 16	53: 23 54: 8	3: 8	3: 19 74: 24
Marsha	metropol . . .	60: 17 62: 5	move 4: 25	natural
60: 16, 16	83: 18, 20	62: 15	84: 23	11: 7 59: 23
63: 16	Mexi co 2: 24	64: 10	95: 13, 13	59: 25
marshal	MI B 2: 20	66: 17	moves 36: 15	92: 17
92: 22	mic 26: 14	70: 18	36: 15	nature 20: 5
Mason 3: 3, 6	Mi ce 54: 14	71: 17, 25	movi ng 17: 8	52: 9 56: 10
5: 2	mic s 6: 23	72: 3 76: 24	Mul lon	NCI 5: 22
material	Mighty 3: 9	77: 16	86: 21, 22	near 83: 20
11: 8	mill ion	78: 15, 23	88: 9	necessari ly
matter	23: 15, 25	90: 2 92: 12	Museum	36: 3
24: 16 39: 8	59: 14, 16	92: 16	56: 15	need 8: 1
50: 18	77: 16	93: 10, 17	Myron 50: 1	15: 3 17: 13
58: 19	94: 24 95: 2	94: 3	50: 1	33: 1 37: 22
matters	mill ions	mi ni ature		39: 11 46: 3
8: 25, 25	24: 7	83: 10	N	47: 22
13: 25	mi nd 3: 5	mi ni mum	name 5: 1	48: 14
21: 15	53: 11	36: 1 39: 11	6: 16 26: 17	54: 10
24: 24	84: 15	mi nutes	26: 18	59: 25
mean 7: 17	mi nds 4: 15	78: 1	29: 19	62: 10 64: 5
32: 10	mi neral	mi ssed 16: 3	35: 10	66: 1, 7
39: 20	7: 10, 13	model 32: 20	42: 13	77: 14
63: 10	19: 12	money 13: 6	47: 12	78: 10
84: 11, 13	26: 19	20: 22	49: 13 50: 1	83: 23
means 38: 7	47: 14	31: 11	53: 15	93: 14
55: 19	48: 16, 17	34: 16 35: 2	54: 25	needed

68: 25 82: 9 84: 2 needs 12: 4 27: 15 28: 6 29: 7 31: 18 52: 7 71: 11 77: 19 89: 15 negotiated 70: 22, 25 negotiation 50: 24 71: 2 81: 2, 4 84: 13 negotiat... 71: 6, 9 77: 10 NEPA 37: 13 37: 25 38: 1 38: 25 41: 5 41: 15 42: 8 65: 7, 9, 12 65: 24 66: 7 66: 12 71: 15 72: 3 72: 9, 23 73: 8, 8, 11 73: 11, 11 73: 12, 16 73: 19, 23 74: 11 75: 3 75: 7, 8, 14 75: 21, 22 76: 3 never 11: 18 30: 10 39: 8 44: 23 68: 11 84: 12 85: 19 94: 10 new 2: 24 6: 1 8: 2, 12, 13 9: 8 10: 13 11: 24 13: 13 17: 7 18: 16 46: 11 55: 6 56: 19 NHPA 37: 17 ni ce 23: 23 83: 10	Ni chols 90: 18, 18 90: 22 91: 5 91: 10, 13 ni ne 24: 1 32: 2 ni ne-month 32: 1 ni neties 20: 4 non-0sage 90: 19 noncompl... 13: 2 nontribal 43: 23 nontrigg... 75: 22 normal ly 16: 12 18: 9 North 5: 25 northern 59: 21 Notary 97: 5 noted 67: 7 noti ce 89: 4 89: 7 noti on 8: 18 number 12: 23 27: 5 62: 20 81: 6 NW 2: 5, 9, 15 2: 19, 23 <hr/> 0 <hr/> oath 49: 20 objecti on 6: 3 obl igated 93: 13 obl igati on 43: 4 obtai n 57: 15 80: 3 Obvi ous 30: 20 obvi ousl y 84: 21 occupy 86: 16 occupyi ng 86: 15	occurs 43: 7 61: 5 offered 3: 4 offi ce 1: 12 2: 4, 8, 14 2: 23 13: 10 16: 15, 18 26: 25 27: 4 27: 6 29: 23 30: 16 32: 11 61: 19 76: 21 78: 23 80: 16 81: 1 83: 20 86: 23 91: 3 91: 18 92: 7 92: 10, 17 92: 19, 20 offi ces 13: 7 23: 20 27: 6 62: 15 76: 18 79: 9 82: 8, 10, 18 86: 15, 16 offi ci al 97: 15 oh 5: 25 6: 14 6: 22 14: 13 30: 7 oi l 7: 11 21: 8 30: 18 30: 22 31: 9 31: 10, 18 34: 9 35: 14 39: 16 43: 23 47: 15 54: 12 55: 3 55: 3 59: 13 59: 15 68: 8 69: 19 73: 18 74: 4 77: 16 79: 5 oi l fi el d 25: 17 57: 13 oi l fi el ds 56: 24 okay 10: 2 16: 20, 24	27: 25 33: 5 33: 10 35: 1 35: 3 36: 17 38: 4, 23 39: 13 41: 22, 24 42: 10, 22 43: 1, 5, 11 43: 15, 20 43: 25 44: 9 44: 13 45: 25 47: 4 47: 10 68: 3 69: 14 71: 9 71: 20 72: 4 72: 15 73: 14, 18 74: 15 75: 14, 25 76: 5 77: 25 78: 13 86: 17 87: 1 89: 14, 21 90: 11 91: 5 91: 13 92: 8 92: 13 Okl ahoma 1: 23 49: 21 56: 21 79: 2 79: 4, 6, 9 95: 4 97: 2 97: 6, 8 old 21: 17 53: 17 93: 24 once 10: 3 11: 21 13: 8 13: 8 14: 22 14: 24 15: 25 22: 20, 24 47: 9 56: 17 85: 21 one-si ded 88: 24 ones 22: 24 70: 10 open 4: 15 4: 16 5: 3 6: 6 12: 23 17: 19 18: 18 19: 2	26: 13 40: 17 82: 21 83: 20 opens 30: 12 operate 58: 18 59: 21 76: 18 92: 1 92: 5 operati on 32: 22 operati ons 83: 12 opi ne 33: 19 opportun... 30: 25 opportuni ty 8: 4, 8, 9 13: 18 16: 5 20: 6, 24 24: 25 27: 8 27: 8 30: 12 31: 14 95: 14 opti on 46: 19 91: 10 order 25: 20 30: 22 31: 11, 23 61: 25 63: 4 67: 23 68: 25 72: 16 orders 58: 9 ordi nari l y 33: 10 organi za... 14: 8, 11, 12 Organi za... 8: 14 13: 14 ori ented 33: 8 ori gi nal 69: 15 70: 4 ori gi nali y 27: 10 78: 7 Osage 3: 19 19: 7, 8, 9, 9 19: 11, 11 19: 17, 24
--	---	--	--	--

20: 22 21: 6	overwhelmed	8: 15	pays 33: 16	74: 6, 12, 19
21: 15	78: 21	partners	people 3: 19	permits
22: 15 23: 1	owner 51: 4	14: 9 30: 21	3: 23, 23	41: 19
23: 1 25: 1	53: 16	40: 19	12: 11	78: 21
25: 1 26: 19	owners 29: 9	partnership	21: 13 24: 3	person 72: 8
29: 8, 20	53: 25 54: 2	43: 17, 22	24: 10 30: 7	personnel
31: 12, 13	54: 6	parts 43: 2	31: 6 32: 8	83: 14
31: 18 32: 8		45: 4, 4	38: 20	perspective
34: 11	P	62: 19	44: 13 52: 8	30: 17, 18
35: 16	pace 95: 9	82: 23	53: 24 54: 1	petition
40: 25 41: 2	packet 8: 11	party 9: 5	56: 8, 23	43: 9 44: 18
47: 13	pages 97: 11	12: 12, 19	57: 23 58: 8	Phillips
48: 16 50: 2	paid 25: 11	12: 21, 25	60: 2 73: 20	79: 14 80: 4
51: 3, 12, 22	32: 14	43: 6	77: 13, 24	physical
51: 25 52: 2	paper 5: 7	pass 67: 10	79: 9 82: 7	12: 5 28: 20
52: 7, 10, 11	15: 3 20: 21	68: 25	82: 8, 17	pick 24: 4
52: 13, 14	parents 4: 1	passed 7: 6	83: 5 92: 18	78: 5
55: 1 56: 7	part 6: 11	18: 1 46: 15	peoples	pictures
56: 7 60: 2	6: 12, 12	52: 21, 22	4: 24	20: 21
60: 2, 11, 17	7: 5 20: 11	68: 20	percent	piece 31: 20
61: 12, 13	23: 9 25: 23	passing	31: 8	64: 5
62: 5 64: 10	25: 24 26: 4	70: 10	perform	pieces 94: 8
66: 17	27: 22 31: 5	Paul 47: 11	7: 18 53: 4	pig 68: 4
70: 17	31: 21	47: 12	79: 22 80: 5	piles 9: 19
76: 17	34: 13	48: 15	80: 25	pipeline
78: 14, 20	39: 19	49: 10, 16	83: 25 84: 2	43: 24 69: 7
78: 23	42: 23 43: 8	64: 9, 10, 16	84: 5, 7	pit 32: 17
79: 11 82: 1	49: 4, 18	64: 18 65: 4	87: 22	place 3: 4
83: 11	50: 8, 12, 14	65: 21 66: 1	performed	3: 13 9: 15
84: 21 85: 4	50: 24, 24	78: 13, 14	80: 15	11: 19 12: 3
86: 23	51: 8 55: 12	81: 25	performing	13: 9, 19
88: 14 90: 2	63: 22 64: 1	82: 19 83: 7	43: 5 48: 2	14: 20 30: 4
90: 5 92: 13	64: 6 68: 5	84: 16	53: 9 79: 14	30: 16 83: 8
92: 16	70: 13, 22	Pawhuska	81: 5 86: 3	94: 2
93: 12, 16	87: 22 88: 9	56: 21 83: 9	performs	placed
94: 20, 24	89: 23	pay 25: 7	27: 23 36: 6	11: 15
Osages 26: 7	partially	32: 14, 18	47: 1 62: 19	placeholder
30: 10	78: 16	32: 18 84: 6	period	88: 11
ought 56: 2	participate	84: 8 85: 14	15: 15, 15	places
88: 6	66: 3	94: 15, 25	15: 24, 24	80: 23
outside 8: 5	particip...	95: 6, 7	16: 2, 2, 4	plan 34: 12
8: 16 14: 9	11: 13	payback	16: 23 17: 2	plans 63: 7
34: 8 92: 16	particular	85: 19	17: 16, 19	80: 2
overall	17: 14 27: 4	paycheck	24: 18 64: 2	play 35: 21
7: 14 11: 3	39: 8 87: 20	73: 13	periodic	please 6: 22
56: 8	particul...	paying 84: 9	36: 17 43: 4	26: 16
overburd...	6: 17 12: 9	94: 25 95: 1	44: 15	plenty 78: 8
41: 6	61: 12	payment	periods	plug 23: 4
overheads	parties	71: 24 72: 8	18: 12	plus 94: 24
43: 7	48: 9, 13	payments	permit	pockets
oversee	97: 13	29: 15	41: 16	9: 23
4: 11	partner 8: 9	34: 17	72: 20, 24	point 10: 10

12: 25 18: 7	practical	62: 3 70: 1	79: 22	12: 14
21: 8 39: 15	50: 21	73: 5 74: 8	profit	50: 15
39: 18	practica...	80: 7 81: 21	25: 18	provisi on
42: 17	50: 19	82: 13	program	13: 3 27: 18
48: 24	prayer 3: 3	90: 19	56: 19, 19	43: 6, 7, 15
52: 20 64: 1	3: 7, 9	problem	proper 28: 7	44: 7, 25
81: 9 82: 19	preceding	21: 18, 19	property	66: 9 86: 25
83: 8 86: 25	97: 11	22: 21	21: 7 28: 15	87: 5, 9, 13
91: 16	prepare	35: 10, 13	53: 24 54: 2	89: 3
pointed	6: 12, 19	57: 6 58: 25	proposal s	provisi ons
67: 13	10: 23	58: 25 67: 8	28: 12	10: 22 33: 7
points 28: 1	preparing	74: 5	proposed	80: 9 88: 23
44: 23	70: 12	problems	5: 4, 11, 13	publ ic 38: 3
74: 17	presence	20: 22 22: 5	5: 24 6: 6	38: 4, 6, 16
polici es	3: 21	23: 17	8: 11 15: 14	38: 18
56: 3	present	67: 13	16: 1, 9, 21	40: 18 97: 6
poli cy 2: 13	96: 1, 2	procedures	16: 21, 22	publ icized
7: 14 16: 19	presented	50: 4	17: 5, 17, 24	62: 1
37: 13	6: 25	proceed	18: 5, 15	publ ish
politi cs	presenting	40: 3	22: 17	17: 1, 24
23: 2 59: 19	3: 16 68: 15	proceedi ngs	27: 19	61: 11
pool 8: 5	preserva...	96: 6	29: 22 37: 8	publ ished
populated	37: 14	process	64: 3, 8	14: 24
83: 15	49: 11	7: 22 8: 13	70: 5 86: 9	16: 21 17: 5
portions	preserve	15: 21 16: 1	88: 12	61: 6
92: 11	53: 4	19: 15 22: 1	proposi ng	pull 94: 14
positi on	preserves	50: 14	91: 15, 21	pulli ng
6: 18 19: 11	53: 10	51: 12	propri etary	24: 21
positi ons	presidents	52: 11, 16	48: 6	purchase
82: 24	20: 21	65: 9 66: 25	protect	71: 22 72: 8
83: 17	presume 9: 1	82: 22	3: 24 12: 5	purchased
positi ve	pretty	85: 25 86: 8	23: 5 40: 10	21: 7
7: 25 12: 9	10: 18 70: 2	87: 8, 12, 14	48: 14, 21	purportedl y
13: 14	previously	87: 16, 18	49: 6 52: 3	78: 24
possibi lity	78: 16	89: 3 90: 23	89: 2	purposes
9: 25 22: 25	primari ly	90: 25	protecti ng	75: 21
44: 18	14: 15	processi ng	40: 1, 11	pushi ng
63: 21	80: 10	92: 10	48: 16, 21	78: 10
69: 16 80: 3	Princi pal	producer	protecti on	put 3: 25
possibl y	2: 3	71: 14	3: 22 48: 23	23: 10
65: 23	princi ple	producers	49: 3, 11	24: 11, 17
83: 18	33: 13	35: 14	protecti ons	31: 11
posted	pri or 11: 17	39: 16	30: 4	33: 23 54: 5
51: 14	pri vacy	47: 15	provi de 5: 5	58: 19
Potawatomi	25: 25	produci ng	9: 18 27: 21	59: 14 72: 9
90: 19	pri vilege	55: 2	28: 10	94: 8
potenti al	4: 6	producti on	32: 17	puts 52: 11
40: 4 95: 6	pri vileges	21: 22 41: 8	50: 17	putti ng
95: 10	3: 10	60: 4	provi ded	51: 12, 20
power 54: 10	probabl y	professi ...	8: 3 79: 21	71: 7
powerful	7: 3 33: 22	82: 9 97: 5	provi des	
93: 21	34: 8 48: 25	professi ...	10: 13	
				Q

quadruple	44: 22	89: 25	5: 13 7: 23	relief
95: 7	55: 18 56: 3	received	9: 6 70: 12	41: 17
qualific...	56: 17	10: 4 14: 23	88: 11	relocate
14: 7	reading	21: 7	regular	83: 14, 19
qualified	55: 18 60: 5	receiving	71: 3	remain
10: 16, 25	ready 32: 3	80: 5 83: 19	regulation	26: 20, 21
82: 17	61: 23 78: 4	recess 78: 3	5: 4 17: 14	39: 25
question	91: 1	recognize	28: 8 64: 3	remains
26: 24	real 8: 25	19: 6	72: 23	30: 5
29: 17	13: 25	record 6: 11	regulations	remark 67: 2
39: 14	16: 17 17: 9	6: 13, 19	5: 6, 13, 14	remarks
41: 14, 16	23: 24 55: 9	26: 11	5: 18, 18, 24	6: 12
45: 25 50: 3	reality	49: 13	7: 1 8: 1	remedies
60: 25 64: 9	81: 24	63: 22 64: 1	17: 9 18: 16	12: 16
66: 17	realize	68: 1 69: 9	18: 19	43: 14
68: 15	83: 9	records	27: 19 37: 7	remedy
69: 15 74: 3	really 7: 12	28: 15	38: 17, 24	12: 15
78: 14, 17	10: 18, 25	47: 13, 16	39: 5 41: 6	remember
84: 4 88: 15	12: 6 15: 21	47: 19, 21	48: 7, 8	21: 9 26: 16
90: 23	17: 13, 15	47: 23, 24	58: 20	remind
questioning	18: 15	47: 24 48: 4	60: 12 64: 5	95: 16
95: 22	23: 20 27: 7	48: 18, 21	64: 8 65: 24	remote 82: 8
questions	30: 20	48: 23	66: 6 69: 1	82: 11
3: 18 4: 18	31: 15	49: 19, 23	69: 2 70: 5	removing
4: 19 15: 2	34: 12	54: 13	70: 7 75: 10	75: 10
52: 19	39: 23	86: 11	75: 16 86: 8	render 3: 7
53: 19	42: 20 60: 8	90: 14	87: 12, 15	repay 85: 7
62: 10, 12	68: 15	Red 50: 1, 1	87: 16	Reported
78: 12	70: 12 72: 7	redline	88: 10	1: 25
95: 20, 22	77: 20	5: 12	89: 13 91: 6	reporter
quick 16: 17	82: 15	reduced	91: 16, 17	6: 8, 9, 14
39: 15	83: 10	97: 9	91: 24	97: 5, 5
73: 11	85: 24	referred	regulatory	represent
77: 23	88: 10, 24	43: 7 46: 23	2: 18, 23	31: 12
quickly	Realty	47: 2	7: 22 15: 5	represent...
14: 22	30: 16 48: 1	referring	63: 9	24: 17
94: 20	76: 19, 21	89: 24	relate 31: 1	represent...
quite 12: 11	reason 37: 1	refers	related	90: 20
50: 3 54: 15	74: 2 83: 11	91: 17	87: 8 97: 12	represent...
70: 18	92: 2	reflect	relation...	4: 24
R	reasons	5: 14 63: 18	23: 19 29: 8	represented
RACA 15: 5	37: 1, 2	reflected	29: 13	3: 19
raised	67: 22	14: 11	relatively	Represent...
86: 24 88: 7	reassume	regarding	6: 4 18: 23	19: 24
ranch 94: 24	43: 9 86: 6	51: 24 88: 6	relay 69: 24	request
range 27: 9	reassumes	regional	release	77: 23
44: 13 45: 2	85: 15	81: 21	48: 9 61: 23	89: 21, 22
rarely	reassump...	Register	74: 10	require
50: 19	88: 23 89: 2	14: 25	released	38: 3 44: 2
RCB 20: 5	89: 9	Registered	48: 13 68: 6	74: 21
read 14: 17	receive	97: 5	relied 59: 9	required
	85: 16	regs 5: 11	59: 9	5: 17 17: 25

33: 11	79: 13	44: 15 47: 5	45: 16, 17	16: 1, 2, 21
36: 18	81: 13, 15	63: 12	45: 17	16: 22 17: 1
49: 18 50: 4	85: 16	64: 22 66: 7	rights 79: 5	17: 1, 3, 5
83: 14	responsi . . .	66: 12, 15	89: 12	17: 17, 24
requirement	30: 4 47: 17	73: 12, 12	rights-o . . .	17: 25 18: 5
14: 13, 18	47: 20, 21	73: 16, 19	28: 13, 23	18: 15
37: 5, 23	51: 8 53: 5	73: 22, 23	33: 9 36: 2	22: 17 37: 8
38: 14 40: 9	53: 10	76: 4 91: 1	37: 6, 21	71: 6 86: 9
40: 10 73: 8	55: 10 57: 9	91: 7 93: 5	42: 24	86: 10
73: 9, 10	58: 3 59: 4	reviewing	43: 19 44: 1	88: 12
requirem. . .	60: 14	92: 23	44: 11	rulemaking
44: 4 72: 17	69: 23	reviews	52: 25	70: 22, 25
75: 2	88: 25	36: 17	66: 13	70: 25 71: 1
rescind	94: 19	revised	75: 12, 24	71: 3
85: 6	responsible	10: 8	80: 12	rules 16: 9
rescinded	39: 25 49: 8	revision	rights-o . . .	55: 6 58: 20
12: 3	49: 10	66: 18	14: 4	61: 6
rescission	restricted	revisions	rigs 21: 1, 2	ruling 6: 13
86: 8 89: 14	36: 22, 24	10: 22	24: 20	15: 21, 25
reservation	resubmit	rhetoric	risk 23: 6	16: 1
6: 1 23: 3	10: 24 16: 5	21: 23	40: 4 51: 13	run 20: 20
32: 9	resume	rid 45: 3	51: 21 52: 1	24: 2, 3
reserves	44: 17	56: 13 75: 2	52: 12	58: 5, 6
60: 3	retain 14: 9	right 4: 9	risky 52: 16	77: 15
residential	return	5: 8 12: 2	road 2: 23	running
68: 23	30: 18 32: 3	16: 23 19: 3	85: 6	13: 7 59: 13
resides	89: 7	21: 25	robbery	runs 22: 20
80: 20, 25	returned	26: 12 28: 2	24: 5	56: 10
residual	86: 13	31: 8 32: 25	Robin 82: 13	Russell
77: 3, 5	Revard	33: 23 34: 7	83: 23	55: 19
79: 24	47: 11, 12	34: 10, 21	rock 1: 21	59: 11
resolution	48: 15	35: 9, 13	51: 19, 19	
89: 16, 19	49: 10, 16	50: 14	97: 7	S
89: 24	64: 9, 10, 16	55: 10	role 35: 12	salary
resource	64: 18 65: 4	57: 25	35: 19	82: 10
1: 17 7: 3	65: 21 66: 1	58: 15 59: 6	88: 25	sale 21: 4
10: 2 11: 12	78: 13, 14	60: 3 61: 25	roll 15: 20	54: 5
15: 6 74: 23	81: 25	64: 15	rolling	sand 23: 10
resources	82: 19 83: 7	65: 25	13: 9	sat 20: 5
8: 6 11: 7	84: 16	67: 25 71: 2	ROMERO 2: 22	satellite
11: 14	revenue	71: 8 72: 21	room 2: 10	83: 20
86: 12	92: 18	73: 3, 4, 6, 7	93: 21	saw 23: 18
90: 13	94: 21	76: 11, 22	rough 40: 12	saying 30: 7
92: 18	revenues	77: 8, 19	40: 13	34: 2 48: 20
respect	79: 25	80: 16	routed 92: 7	49: 4 52: 23
93: 16	92: 18	81: 19 82: 5	royal ties	60: 7 65: 18
respond	review	83: 10, 24	32: 14	70: 13
52: 20	11: 11, 16	84: 16, 17	33: 16	89: 16
responsi . . .	20: 8 27: 3	85: 20 91: 7	royal ty	says 27: 22
19: 1 39: 12	37: 22, 24	91: 12 92: 2	32: 24	37: 7 43: 16
49: 1, 25	38: 4, 15	92: 4 95: 19	34: 17	77: 17
78: 19	42: 8 43: 4	right-of . . .	rule 8: 11	81: 22

BUREAU OF INDIAN AFFAIRS TRIBAL CONSULTATION July 11, 2019
 TRIBAL ENERGY RESOURCE AGREEMENT

87: 13 91: 7	93: 3	16: 23	31: 25	60: 25
94: 6	Secretary's	17: 17 32: 4	shortens	61: 14
scenarios	44: 2, 8	44: 25 61: 6	10: 9	64: 14, 17
46: 1	61: 19	63: 20	shorter	65: 2, 5, 25
schedule	62: 24	serious	14: 16	66: 4, 22
94: 25	74: 15	35: 13	Shorthand	68: 17
school 2: 23	75: 19	68: 10	97: 4	71: 17, 20
76: 13	see 3: 12	seriously	show 5: 8, 10	71: 23 72: 2
schools	5: 16 14: 17	53: 13	6: 4, 25	72: 5, 10, 12
79: 6	15: 6 21: 23	serve 20: 4	69: 16	72: 18, 21
seal 97: 15	22: 11	service	77: 23	72: 25 73: 2
season 4: 22	23: 22 25: 4	20: 14 22: 1	showing	73: 7 74: 13
seat 55: 11	31: 6 33: 6	68: 22, 22	9: 10	74: 25 75: 4
Second 41: 1	39: 21 40: 8	94: 23 95: 8	shrunk	75: 7 76: 1
secretarial	45: 2 57: 10	services	40: 23	76: 7, 9, 22
42: 25	60: 10 77: 2	21: 4 28: 11	shut 59: 17	77: 8 86: 7
61: 25 63: 4	81: 9 83: 3	28: 19	side 21: 13	88: 8, 20
67: 23	83: 10	session	40: 11	89: 8 90: 1
Secretary	84: 11, 15	5: 22	55: 21	90: 4, 6, 10
1: 12 2: 4, 4	87: 7 91: 16	set 5: 4	81: 10	90: 12, 16
2: 13, 14	95: 20	38: 24	sign 35: 21	91: 4, 9, 12
12: 4 16: 19	seek 12: 15	52: 20 55: 6	52: 7 77: 6	91: 14
28: 4 33: 9	seen 19: 25	61: 25 79: 5	signed	sir 60: 14
33: 10, 15	30: 23 80: 7	97: 11	64: 12	sit 4: 15
35: 20	seldom	setting	76: 21	42: 19
36: 17 37: 4	39: 10	31: 17	significant	sitting
37: 4, 5	self-det...	severely	62: 10	21: 3 80: 22
38: 13	7: 14, 19	77: 1	signific...	situation
42: 22 43: 3	8: 22 11: 5	share 5: 12	78: 22	51: 18
43: 9, 21	11: 7 13: 23	shareholder	signs 35: 22	six 41: 10
44: 12, 16	46: 15	85: 4	36: 1 51: 7	skills 82: 9
44: 16	50: 11 81: 3	sharehol...	similar	skin 26: 7
46: 12, 16	self-det...	30: 19	13: 20 38: 8	slice 81: 18
46: 20 47: 1	82: 24	sharehol...	68: 18, 18	slide 5: 8
47: 17 48: 2	self-gov...	19: 9, 22	Similarly	5: 10 6: 4
51: 7, 10	7: 15, 19	20: 24	92: 23	6: 25
52: 24 53: 4	8: 22 11: 4	24: 12	simple 50: 3	slots 82: 14
53: 5, 9	20: 16, 17	31: 13 32: 6	70: 2	small 55: 2
55: 11 56: 4	self-gov...	32: 19	Simpson 2: 8	68: 8 94: 21
58: 15, 16	82: 23	34: 18 35: 3	16: 6, 8, 10	smart 55: 24
58: 17	sell 71: 21	48: 16	16: 14, 14	84: 6
60: 11 63: 2	Senate 87: 4	54: 19	16: 17, 20	smartest
63: 11	send 71: 25	60: 18	27: 16 30: 2	55: 25
64: 13	sense 14: 1	93: 12, 25	32: 21 33: 1	Smi thsoni an
66: 12 69: 1	14: 5 40: 24	She' ll 6: 9	34: 4, 10, 15	56: 14
72: 1 74: 16	55: 16 75: 6	shoes 7: 16	34: 20, 23	social
74: 17, 18	sensi tive	7: 17	35: 24	28: 21 30: 6
88: 25	41: 10	shop 15: 18	41: 19	51: 14
89: 10 91: 1	separate	short 14: 25	42: 18 45: 8	solar 68: 24
91: 20, 22	91: 6 94: 4	73: 11	45: 14 46: 5	soldiers
91: 22, 25	September	87: 17	47: 22	25: 19
92: 3, 6, 9	15: 8, 15	shortened	52: 18	Solici tor

2: 8 92: 20	38: 1 62: 4	59: 21	34: 20, 23	strategic
Solici tor's	63: 18 64: 2	status	35: 24	34: 12
16: 15, 18	65: 13	28: 10	41: 19	Street 1: 22
26: 25	75: 14	statute	42: 18 45: 8	2: 5, 9, 15
solici tors	speci fy	5: 17 7: 24	45: 14 46: 5	2: 19 97: 8
27: 3	10: 22	8: 2 18: 16	47: 22	strong 60: 9
sol ve 58: 24	speech	20: 7, 9	52: 18	struck 21: 8
58: 25 83: 2	23: 14	29: 2, 11, 12	61: 14	study 77: 20
somebody	56: 13	33: 7 37: 3	64: 14, 17	stuff 92: 15
12: 21 49: 7	speeches	37: 7, 19, 23	65: 2, 5, 25	subject
71: 11	55: 25	37: 25 38: 8	66: 4, 22	14: 14 39: 7
somebody's	spiri t	38: 8, 16, 17	68: 17	48: 6, 8, 12
49: 13	52: 14 94: 1	43: 2, 8	71: 17, 20	49: 22, 23
son 5: 1	spot 33: 23	45: 17	71: 23 72: 2	76: 3
sorry 80: 14	95: 12	52: 22 53: 2	72: 5, 10, 12	submi t 10: 8
sort 7: 12	spots 83: 3	53: 9 65: 8	72: 18, 21	11: 20
8: 5, 24	spur 8: 10	65: 8 67: 4	72: 25 73: 2	15: 16
11: 1, 3, 16	ss 97: 3	67: 4, 13	73: 7 74: 13	17: 18
14: 17, 19	staff 6: 11	68: 18 75: 9	74: 25 75: 4	18: 13 89: 4
32: 24	78: 9 79: 8	75: 15 87: 1	75: 7 76: 1	89: 7
40: 12 45: 1	81: 5	87: 3 88: 6	76: 7, 9, 22	submi tted
63: 6, 8	stamp 63: 6	statutes	77: 8 86: 7	67: 1
81: 8, 24	stand 4: 9	18: 23, 23	88: 8, 20	subpart
82: 5, 16	18: 11	37: 11, 16	89: 8 90: 1	8: 12 13: 13
94: 15	26: 15	65: 9, 11	90: 4, 6, 10	subparts
sorts 94: 16	54: 23	89: 12	90: 12, 16	8: 12
sounds	Standi ng	statutory	91: 4, 9, 12	substanti al
55: 11	19: 5, 21	7: 5, 20	91: 14	11: 11
56: 17	start 3: 3, 4	10: 3 17: 7	stephen. . . .	12: 17, 18
spare 9: 23	32: 1 39: 17	17: 8	2: 11	40: 4 62: 20
87: 25	53: 25	stay 12: 3	steppi ng	substanti ve
speak 6: 15	60: 12 78: 9	20: 9 25: 4	93: 23	14: 19
51: 4	81: 10	stayed	steps 12: 15	17: 10
Speaker	started 3: 2	21: 11	Steve 16: 17	success
19: 8 22: 19	21: 13 24: 5	stenograph	17: 20	66: 19
85: 3 90: 21	29: 21	97: 10	18: 14	79: 23
93: 7, 13	66: 25 78: 5	step 7: 12	26: 24	sudden 59: 3
speaki ng	starts	7: 16 15: 20	39: 21 49: 4	sued 12: 11
6: 14 19: 18	27: 23	55: 13	80: 7 87: 3	suggested
31: 7 67: 9	state 6: 15	Stephani e	Steve's	22: 17
86: 2	6: 18 14: 14	35: 8, 10	50: 9	summer 4: 22
speci al	79: 4, 6	38: 23	stop 78: 7	Sun 3: 12
91: 3 92: 19	95: 4, 6	39: 13	stops 34: 24	superi nt. . .
95: 25	97: 2, 6	Stephen 2: 8	35: 2 58: 16	35: 20
speci fic	statement	16: 6, 8, 10	58: 16	57: 16 58: 9
8: 18 9: 11	6: 23 54: 1	16: 14, 14	61: 18	72: 6, 13
11: 2 18: 24	54: 24 73: 4	16: 20	stories	79: 14 80: 4
27: 15 28: 2	statements	17: 22	66: 20	81: 21
86: 25 87: 5	19: 13	21: 24	story 61: 10	superi ors
87: 13	states 2: 3	27: 16 30: 2	87: 17	56: 11
speci fi c. . .	7: 17 9: 2	32: 21 33: 1	straight	support
14: 14 34: 8	40: 5, 23	34: 4, 10, 15	18: 5	28: 11, 18

BUREAU OF INDIAN AFFAIRS TRIBAL CONSULTATION July 11, 2019
TRIBAL ENERGY RESOURCE AGREEMENT

39: 4 81: 7	82: 3, 20	talked	57: 3, 4, 10	47: 8 48: 8
supposed	83: 21	22: 19	57: 12 59: 1	50: 3 51: 5
78: 7 81: 23	84: 17 85: 9	31: 18 56: 3	59: 25 60: 8	51: 24 52: 4
85: 25	88: 22	94: 11	60: 13 61: 7	52: 5, 17, 22
Supreme	95: 19	talk ing 3: 8	61: 21, 22	52: 24
22: 3	take 7: 9	7: 2 29: 21	61: 24	53: 21 54: 2
sure 6: 20	8: 8, 19	44: 5 56: 12	67: 16, 20	56: 16 61: 2
11: 17	9: 16 10: 23	56: 12	67: 24	64: 11, 23
12: 24 15: 2	12: 5, 14	67: 23	68: 13	66: 6, 8, 11
30: 3 34: 15	24: 9 27: 9	70: 21	77: 10 94: 1	66: 18, 23
40: 16, 17	27: 12, 13	80: 13	telling	68: 24
42: 6 61: 1	27: 17	85: 10 86: 9	58: 24 71: 6	74: 22
61: 12, 24	33: 13 36: 4	89: 10	74: 7	75: 10 80: 8
62: 1 68: 4	36: 6, 11	talks 8: 13	tells 11: 2	80: 8, 12
68: 15	37: 3, 4	27: 20	58: 10 60: 6	85: 5, 7
87: 14	41: 21, 24	87: 10	ten 54: 1	87: 18
surface	42: 25 46: 6	tank 57: 5, 6	tend 76: 15	88: 16
38: 9, 12	46: 12, 15	tap 79: 25	tent 21: 14	90: 24 91: 2
94: 13	46: 20	tari ff 75: 9	TERA 1: 17	92: 24 93: 5
surpl uses	47: 19	79: 17, 19	9: 2, 6, 9, 12	94: 6
13: 7	51: 10	task 80: 5	9: 16 10: 2	TERAs 7: 2
survi vi ng	54: 19	tasked	10: 8, 19	12: 2, 12
4: 7	56: 11 58: 4	79: 17	11: 18, 19	13: 9, 12, 20
Susan 42: 13	58: 5 60: 9	taught	11: 21, 23	67: 25 69: 9
42: 13 45: 6	61: 4 63: 3	56: 10	11: 24 12: 7	term 50: 21
45: 13, 25	63: 3 68: 22	93: 15	12: 22 13: 2	terms 29: 3
system	75: 16	team 62: 25	13: 5, 16, 17	30: 12
22: 15	76: 21, 24	technical	13: 19 20: 3	37: 24
57: 19	77: 6, 23, 24	28: 18	20: 11, 18	43: 11
T	78: 1 79: 13	31: 16 39: 3	21: 21 22: 5	thank 3: 10
table 84: 25	81: 2 83: 13	TEDO 14: 14	22: 14, 17	3: 11, 12, 14
Tahsuda 2: 3	88: 4, 12	14: 23 33: 7	22: 22, 25	3: 15, 21
3: 1 5: 2, 10	94: 17, 17	34: 5 36: 13	26: 21	4: 6 5: 2
7: 1 16: 7, 9	94: 18	36: 14, 23	27: 10, 12	18: 11 19: 5
16: 12, 16	taken 37: 19	40: 21 41: 4	27: 21, 25	22: 4 25: 13
17: 20 18: 8	53: 13 64: 1	42: 16, 17	29: 11, 21	26: 11
18: 11	64: 25 78: 3	43: 15 44: 6	30: 8, 12	29: 19
23: 20	takes 9: 7	44: 9, 14, 21	33: 7 34: 5	42: 12 51: 4
26: 12, 16	12: 24 24: 9	44: 25	36: 1, 15, 16	52: 17, 18
26: 23	28: 9 35: 25	45: 18, 19	36: 16, 19	54: 21
29: 16 39: 1	41: 10 53: 8	45: 23	36: 22 37: 3	60: 15, 18
39: 21	56: 20 58: 9	46: 19, 19	37: 23	61: 13
48: 24	75: 18 83: 8	47: 6, 7	39: 20 41: 4	63: 24
49: 15, 18	87: 17	64: 11	41: 24	71: 10 76: 5
50: 8 62: 7	92: 21	65: 14	42: 16, 17	77: 21, 22
63: 25	talk 9: 8	TEDOs 66: 21	42: 21, 21	78: 5 86: 21
64: 20	10: 15	telephoni c	43: 5, 10, 11	90: 11, 15
69: 25	28: 24	15: 10, 12	44: 12, 17	93: 8, 9, 9
70: 24 71: 4	33: 21 55: 9	tell 23: 13	44: 19, 23	95: 14, 17
71: 8 77: 22	83: 23	24: 12 28: 3	45: 4, 9, 16	95: 21 96: 4
78: 4 80: 6	84: 14	36: 14	45: 19, 22	Thanks
	86: 10	39: 18 53: 7	46: 9, 11	17: 20

theoreti . . .	78: 9 80: 6	65: 8, 10, 19	40: 11	34: 25
85: 11	82: 4, 15, 20	66: 19 67: 3	train load	35: 25 36: 4
thing 8: 21	82: 20	67: 4, 4, 5, 6	59: 20	36: 5 37: 24
20: 23 23: 2	83: 22	67: 8 82: 14	transcribed	40: 1, 8, 20
24: 8 26: 6	94: 22	85: 18	97: 10	41: 2, 2, 21
29: 25	95: 24	88: 18, 21	transcripts	41: 23, 25
32: 16, 24	thinking	89: 17, 18	15: 19	41: 25 42: 1
36: 25	18: 6	89: 20, 22	transferred	42: 9, 21, 22
86: 19	thinks	92: 4	80: 23	42: 23 43: 5
things 4: 7	88: 25	timeline	treaty	43: 10, 16
4: 8, 16, 16	third 48: 9	5: 16 10: 9	10: 20	43: 19, 20
6: 10 8: 3	48: 13	61: 11	trespassing	43: 22 44: 2
9: 15 12: 6	third-party	timelines	22: 6	45: 4, 7, 8, 9
13: 9 14: 20	43: 8 44: 18	9: 3	tribal 1: 17	45: 18 46: 5
21: 21	thought	times 4: 23	6: 16, 17	46: 8, 8, 10
24: 19 27: 2	12: 8 24: 18	4: 23 46: 23	7: 3 8: 14	46: 15, 16
28: 25	42: 7 53: 18	47: 3 61: 1	8: 18 10: 2	47: 6, 8, 25
30: 16	55: 22 82: 4	86: 24	12: 16	48: 10, 10
36: 20	82: 21	timetable	13: 13 14: 8	49: 7 50: 12
41: 12, 20	84: 20	18: 4	14: 10, 15	50: 17 51: 3
42: 4 44: 20	thoughts	title 20: 9	15: 6 32: 17	51: 20 52: 6
65: 23	64: 7 95: 24	28: 10	38: 19, 20	52: 7, 8, 10
67: 14, 21	three 6: 1	today 4: 15	40: 1 43: 13	52: 23 53: 8
76: 11	11: 8, 9	4: 18 6: 3	43: 13, 18	55: 1 58: 3
77: 12	13: 24 14: 2	7: 2 19: 23	43: 20	58: 4 66: 11
78: 22	23: 14	56: 13, 21	57: 18	66: 23, 25
81: 19	30: 15	56: 22 59: 4	60: 11	67: 17, 18
86: 15, 20	44: 20	60: 19	69: 22	68: 8, 8, 25
93: 15	45: 20	93: 18, 19	74: 23	75: 18 76: 2
think 3: 3	54: 14 91: 7	93: 25 94: 2	89: 16 97: 9	76: 17 83: 3
7: 25 8: 3	tied 25: 4	Today's	tribe 6: 18	83: 24
9: 4 10: 11	63: 23	25: 11	7: 9, 17 8: 7	85: 13, 19
10: 13 12: 8	till 76: 12	told 17: 10	8: 8, 19, 23	87: 17, 19
13: 16	Tillman	38: 16	8: 24 9: 1, 7	87: 23 88: 3
14: 16 16: 3	19: 6, 8, 21	67: 17, 20	9: 8, 11, 15	88: 14 89: 4
17: 12, 22	54: 22, 25	79: 10	10: 7, 15, 15	89: 9, 12, 14
18: 6, 25	60: 22	93: 18 94: 3	10: 25 11: 6	89: 15, 19
19: 3 22: 5	61: 18	tomorrow	11: 10, 19	89: 21, 23
22: 6 23: 12	77: 17	95: 16	12: 3, 22	90: 23
25: 4 32: 23	78: 17 93: 6	top 53: 23	13: 1, 1, 23	94: 21
39: 23	93: 7	totally	14: 1, 5, 5, 8	Tribe's
42: 11	time 14: 16	23: 18	14: 9, 20	8: 20 10: 20
52: 13 55: 8	15: 16	40: 17	20: 14, 15	11: 2, 3
56: 14 57: 1	18: 12, 12	tough 25: 11	24: 4 25: 9	12: 5 50: 18
59: 18	19: 16	25: 14	27: 15, 17	66: 14
61: 25	31: 22 32: 1	tougher	27: 24 28: 2	tribes 5: 3
62: 25 63: 2	32: 2, 4	43: 13	28: 9, 11, 14	6: 1 7: 15
63: 3, 8, 19	41: 10	tower 95: 2	28: 17, 19	7: 16 8: 4, 9
64: 14	46: 13 49: 6	Town 6: 1	29: 5, 7	8: 15 10: 1
69: 25 70: 9	51: 4 54: 15	track 68: 1	32: 11, 21	12: 10 13: 4
76: 15	56: 5 57: 1	69: 9	33: 2, 14, 16	13: 9, 15
77: 14 78: 8	59: 8 62: 16	tradi ti o . . .	33: 17	23: 13 25: 2

27: 9 31: 10	36: 8 48: 20	underfunded	50: 17	15: 3 16: 10
38: 11, 11	49: 24	24: 3 77: 2	73: 17	16: 11
38: 16, 24	60: 11, 13	underneath	86: 18 88: 2	17: 17
43: 25	67: 11 68: 2	55: 12	usually 3: 2	18: 18 19: 2
45: 11	68: 2 73: 3	understa...	91: 24	20: 23 21: 3
46: 12 61: 4	74: 5 75: 3	79: 18	utilize	22: 4, 8, 25
61: 12 62: 4	75: 3	understand	69: 19	23: 19
62: 5 66: 19	Tul sa 83: 15	54: 16 56: 9	V	24: 12, 19
66: 20, 24	84: 21 97: 3	56: 16 63: 7	valid 12: 25	25: 13, 18
67: 5, 12, 15	turn 19: 16	64: 1 75: 4	value 21: 19	25: 19, 21
68: 7, 21	23: 23	75: 7 76: 6	various	26: 10, 15
69: 3, 7, 11	26: 23 27: 1	78: 24 82: 4	46: 25	30: 3 32: 2
69: 20	49: 7 57: 16	understa...	49: 25	35: 5, 19, 22
75: 16	80: 17	42: 19	78: 21	36: 23 45: 4
77: 12	85: 13, 23	understa...	vehicle	45: 15, 20
82: 23	86: 4, 5	40: 13	42: 4	45: 21, 21
85: 22	89: 4	81: 11	venture	45: 22, 23
88: 13 96: 3	turnaround	94: 16	18: 16	48: 14 54: 1
tried 40: 2	14: 22	understands	43: 23	54: 4, 6, 11
67: 3	tweak 68: 11	79: 15	venue 83: 8	56: 19
trigger	twice 73: 1	undertaking	vetting	59: 17 63: 1
35: 22	two 12: 6	37: 18, 20	28: 7	66: 3 69: 14
64: 22	15: 4, 21	unexpended	view 13: 14	70: 1 77: 24
71: 15 72: 3	23: 15, 15	13: 4	17: 12	82: 25 85: 6
triggered	25: 17 27: 2	unfair	village	86: 3, 24
37: 16 75: 8	53: 17	63: 19	92: 21	88: 16 89: 5
trip 79: 1	57: 20	unfold	violate	89: 16, 22
triple 95: 7	63: 13	82: 23	10: 19	wanted
trust 12: 5	74: 24	unfortun...	violating	17: 22 32: 8
21: 6 22: 8	76: 19	61: 14, 15	43: 10	33: 24
22: 15	88: 18	unification	violation	52: 19, 19
26: 19, 20	91: 11	52: 15	44: 19	67: 18
30: 4 39: 25	type 11: 22	uniqueness	vision	76: 24
39: 25 40: 9	12: 1 27: 5	52: 10	55: 23	wanting
46: 2 49: 3	40: 17, 19	United 2: 3	visited	31: 8 69: 18
49: 5 51: 8	40: 20	7: 17 9: 2	22: 20	69: 19
51: 9, 11	51: 23 55: 6	40: 5, 23	vital 47: 14	wants 8: 19
52: 1, 21	61: 3 69: 10	units 24: 21	48: 17	9: 12 55: 11
53: 5, 10, 25	79: 20	universe	vote 54: 5, 6	68: 4
55: 9, 12, 14	types 14: 2	40: 23	60: 23	War 21: 10
55: 15, 20	typically	UNKNOWN	W	25: 10
57: 9, 9, 10	33: 2	85: 3 90: 21	wait 32: 1	Washington
88: 24 89: 1	U	up-front	Waller 19: 6	2: 6, 10, 15
89: 2	U. S 51: 6, 8	9: 20	19: 18, 19	2: 20
trustee	Uh-huh	update 8: 3	19: 20	wasn't
22: 16 46: 2	71: 23	94: 20	29: 10 93: 9	17: 12
91: 3 92: 19	unable	updated	94: 6	watch 4: 9
truth 57: 22	67: 19	7: 24	want 11: 21	4: 10, 11
try 83: 4	unborn 4: 5	urge 88: 4	11: 25	23: 13
trying	unclear	88: 12	13: 16, 17	watching
25: 14	72: 7, 11	use 6: 22 8: 9		82: 22
33: 12, 12		32: 7 50: 17		water 79: 16

way 4: 12 8: 10 19: 1 25: 17 31: 25 32: 20 42: 20 56: 22 65: 15 67: 21 81: 12 82: 25 85: 12 90: 8 92: 1	77: 11 84: 8 84: 25 85: 10 86: 9 86: 9 88: 1 90: 25 91: 15, 21 92: 1 94: 14 94: 21, 25 94: 25 95: 1 95: 12 96: 5	Whi tehorn 70: 16, 17 71: 1, 5, 9 71: 19, 21 71: 24 72: 4 72: 7, 11, 15 72: 19, 22 73: 1, 6 74: 2, 22 75: 1, 5, 25 76: 5, 8, 10 76: 23 77: 9	85: 20, 21 86: 22 worked 23: 4 23: 21 24: 20, 22 34: 12 62: 8 69: 8 87: 3	40: 25 42: 12 yeah 5: 25 17: 3 18: 8 23: 2, 25 25: 14, 14 27: 16 34: 20, 21 48: 15 57: 5 57: 13 62: 4 88: 10
85: 12 90: 8 92: 1 ways 25: 17 26: 7 30: 24 31: 10 34: 18 45: 20	we' ve 4: 8 11: 18 21: 19 22: 10 23: 17 26: 7 28: 20 30: 15, 23 32: 23	wi de 12: 23 wi l d l i f e 38: 25 72: 23 74: 12	worki ng 21: 1, 20 30: 24 31: 19 35: 4 57: 3 69: 13 73: 3 81: 9	year 5: 15 5: 19 7: 24 18: 1, 2 23: 25 27: 3 39: 8 41: 11 76: 13 81: 14 82: 16
we' ll 5: 24 6: 24 8: 23 9: 1 15: 14 15: 14 20: 19 32: 5 32: 6 62: 4 78: 1, 9 85: 23 86: 4	we' ve 4: 8 11: 18 21: 19 22: 10 23: 17 26: 7 28: 20 30: 15, 23 32: 23 34: 18 38: 9 38: 16 40: 14 41: 6 42: 5 44: 23 46: 22, 25 57: 20 58: 6 59: 8, 23 60: 6 78: 23	wi l l i n g 74: 10 82: 17 wi nd 68: 23 wi ngs 3: 25 wi se 84: 6 wi thheld 48: 9	worko vers 73: 23 works 44: 22 47: 7 85: 12 world 22: 14 26: 3 82: 5 worse 48: 25 48: 25	years 11: 8 11: 9 13: 24 14: 2 21: 17 30: 10, 15 49: 14 53: 17 59: 3 59: 10, 15 59: 16 76: 19 88: 19, 19 91: 8, 11 93: 16 94: 5
we' re 4: 6, 7 4: 9 5: 2, 19 6: 2 7: 2 11: 15 17: 6 17: 9 20: 18 21: 17, 20 22: 9, 18, 24 25: 9, 10, 14 25: 15, 18 28: 1 30: 14 30: 14, 23 31: 19, 24 34: 2 36: 7 42: 19, 19 46: 22, 23 47: 2 49: 24 55: 5, 6 56: 9 58: 2 59: 4, 12 64: 7 66: 8 68: 2, 12 69: 24 70: 13, 14 73: 3, 25 74: 11 76: 16	we' ve 4: 8 11: 18 21: 19 22: 10 23: 17 26: 7 28: 20 30: 15, 23 32: 23 34: 18 38: 9 38: 16 40: 14 41: 6 42: 5 44: 23 46: 22, 25 57: 20 58: 6 59: 8, 23 60: 6 78: 23	WITNESS 97: 15 wonderi ng 41: 4 word 38: 6 words 42: 6 93: 14, 21 93: 21 work 8: 4 9: 25 10: 7 10: 22 13: 1 23: 19 26: 1 26: 1, 25 29: 4, 5 30: 25 32: 20 33: 17, 18 33: 21, 22 40: 16 42: 20 50: 7 56: 24 69: 17 78: 21 79: 16 81: 17 82: 8 82: 10 83: 8 83: 18	would-be 35: 14 wouldn' t 11: 19 22: 3 28: 17 76: 25 81: 20 84: 25 wrap 23: 8 wrapped 15: 9, 13 wri te 20: 13 77: 4 91: 24 94: 8 wri tes 51: 25 58: 11 wri ting 97: 9 wri tten 15: 16 wrong 60: 10 60: 13	young 24: 20 93: 23 <hr/> Z <hr/> 0 <hr/> 05 70: 9 <hr/> 1 <hr/> 1, 600 57: 6 1. 5 77: 16 10 23: 25 88: 19 95: 17 11 1: 20 11: 35 78: 6 110 49: 14 1101 2: 23 11th 97: 7 12 78: 7 12: 30 78: 8

BUREAU OF INDIAN AFFAIRS TRIBAL CONSULTATION July 11, 2019
TRIBAL ENERGY RESOURCE AGREEMENT

78: 11	2: 10, 15, 20	6541 2: 10		
127 21: 17	208-3401	6th 62: 24		
12th 95: 17	2: 11			
13, 000 57: 2	208-7163	<hr/> 7 <hr/>		
57: 4	2: 6, 16	70 94: 24		
139s 35: 21	208s 35: 21	777 1: 22		
36: 3	36: 3	97: 8		
15 79: 8	224 7: 23 8: 1			
1500 79: 10	25: 24	<hr/> 8 <hr/>		
16 57: 5	224. 82	8 7: 21		
16, 000 57: 5	27: 20	866 97: 21		
57: 5	226 20: 9	87104 2: 24		
1754 21: 10	25: 23			
17th 97: 15	25 7: 23 20: 9	<hr/> 9 <hr/>		
1849 2: 5, 9	25: 23, 24	9, 000 55: 5		
2: 15, 19	26 95: 2	55: 7		
1871 21: 7	26th 15: 11	9: 00 1: 20		
1898 21: 8	15: 11	90 65: 14, 16		
18th 18: 1	271 10: 4	89: 20		
61: 7	31: 22	90-day		
1906 22: 23	273-4680	14: 22		
24: 14	2: 21	91 10: 9		
25: 22				
29: 10 30: 1	<hr/> 3 <hr/>			
33: 18	30 38: 10, 11			
45: 10, 23	69: 3			
51: 6, 9, 17	30, 000 55: 2			
52: 21 53: 1	55: 7			
53: 21	379-6138			
54: 20 59: 7	2: 24			
93: 17	3rd 15: 8, 15			
1920 23: 18	16: 24			
1978 55: 1	17: 17 61: 6			
1979 46: 14	63: 20			
53: 9				
	<hr/> 4 <hr/>			
<hr/> 2 <hr/>	4, 000 53: 24			
20 21: 2 31: 8	4660 2: 20			
2005 7: 5, 21				
38: 6 52: 6	<hr/> 5 <hr/>			
66: 17, 18	5, 000 23: 11			
2006 7: 21	505 2: 24			
2008 7: 22				
2012 38: 10	<hr/> 6 <hr/>			
68: 20	606 93: 7			
2018 38: 6	638 42: 5			
2019 1: 20	46: 9 50: 24			
97: 7, 16	53: 8, 9			
202 2: 6, 11	76: 18 77: 7			
2: 16, 21	80: 10, 18			
2021 32: 5	81: 3 87: 8			
20240 2: 6	6513 2: 10			